

### "The City With a Heart"

Rico E. Medina, Mayor Linda Mason, Vice Mayor Tom Hamilton, Councilmember Marty Medina, Councilmember Michael Salazar, Councilmember

### AGENDA SAN BRUNO CITY COUNCIL REGULAR MEETING October 25, 2022 7:00 PM

Consistent with Government Code Section 54953(e), this meeting will be held both in person and virtually. City Councilmembers and members of the public may attend in person at the San Bruno Senior Center, or by teleconference, via Zoom or telephone. The meeting will be livestreamed at <a href="youtube.com/CityofSanBruno">youtube.com/CityofSanBruno</a> and available on CityNet Services local Channel 1 SD | local Channel 10 HD.

### IN PERSON\* MEETING LOCATION

San Bruno Senior Center 1555 Crystal Springs Road San Bruno, CA 94066

\*Please turn off all electronic devices before the start of the meeting to prevent disruptions\*

### **REMOTE VIA ZOOM or TELEPHONE**

Zoom Link: https://sanbruno-ca-gov.zoom.us/j/83092191800?

pwd=cnNmZXMwR3Jha3I3OEt0ekpiUzRZUT09

Phone Line: 1-646-558-8656 Webinar ID: 830 9219 1800 Webinar Password: 084049

**PUBLIC COMMENT**: In person attendees who want to provide public comment, will be asked to fill out a speaker card and turn it into the City Clerk. Virtual attendees can comment by using the "Raise Hand" feature in Zoom to request to speak. For dial-in comments press \*9 to "Raise Hand" and \*6 to unmute. Public comment may also be emailed to <a href="mailto:CityClerk@sanbruno.ca.gov">CityClerk@sanbruno.ca.gov</a>. Comments received via email will not be read aloud during the meeting.

**ACCESSIBILITY:** In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or modifications to participate in this meeting should contact the City Clerk's Office 48 hours prior to the meeting at (650) 616-7061 or <a href="CityClerk@sanbruno.ca.gov">CityClerk@sanbruno.ca.gov</a>.

- 1. CALL TO ORDER
- 2. ROLL CALL
- 3. PLEDGE OF ALLEGIANCE

### 4. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Individuals allowed three minutes. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

### 5. ANNOUNCEMENTS/PRESENTATIONS

Public comment will be requested after each topic in this section

- a. Presentation of an Update on the Tanforan Preliminary Project Application Submittal and the City's Community Engagement Process
- b. San Bruno Recreation and Aquatic Center Update
- c. Issue Proclamation Declaring November 13-19, 2022 as United Against Hate Week

### 6. **CONSENT CALENDAR**

All items are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion, unless requested. There will be a single public comment period for all items in this section unless a Councilmember requests to pull an item for a separate vote.

- a. Approve Accounts Payable for October 10, 2022 and October 17, 2022
- b. Accept Payroll for October 9, 2022
- c. Receive Written Update on the City's Response Efforts to COVID-19
- d. Adopt Resolution Authorizing the City Manager to Execute an Agreement for Consultant Services With Pavement Engineering Inc. for Pavement Evaluation Services for the 2021-22 Street Reconstruction Project in an Amount Not to Exceed \$255,720
- e. Fiscal Year 2021-2022 Quarter 1 Building Division Customer Service Survey Results
- f. Approve City of San Bruno Response Letter to the San Mateo County Civil Grand Jury Report "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know"
- g. Adopt Resolution Declaring the Continued State of Local Emergency and Need for the City Council and Other Legislative Bodies Subject to the Ralph M. Brown Act to Continue to Teleconference in Order to Ensure the Health and Safety of the Public Pursuant to AB 361
- h. Adopt Resolution Authorizing the City Manager to Convert an Existing Legal Secretary Position Assigned to the City Attorney's Office to a Management Analyst I/II Position
- Adopt Resolution Approving Publicly Available Pay Schedule Effective October 25, 2022, Pursuant to the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR)

### 7. PUBLIC HEARING(S)

Public comment will be requested after each topic in this section

a. Hold Public Hearing to 1) Introduce, Read by Title Only, and Waive Further Reading of an Ordinance of the City of San Bruno Amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by Adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and Amending Chapter 12.260 (Development Impact Fee); and 2) Adopt a Resolution of the City of San Bruno Setting the Rate of the Bayhill Specific Plan Area Development Impact Fee

### 8. **CONDUCT OF BUSINESS**

Public comment will be requested after each topic in this section

a. Re-appoint Expired Members and Make New Appointments to Fill Current Vacancies on Commissions Boards and Committees

### 9. COMMENTS FROM COUNCIL MEMBERS

Public comment will be requested after each topic in this section

10. **ADJOURNMENT –** The next Regular City Council Meeting will be held on November 8, 2022 at 7:00 p.m.



### City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Assistant City Manager

**SUBJECT**: Presentation of an Update on the Tanforan Preliminary Project

Application Submittal and the City's Community Engagement Process

**BACKGROUND**: On July 27, 2021, the City Council approved the Reimagining Tanforan Land Use Fact Sheet. This provides a comprehensive guide for future owners to realize City's vision in redeveloping Tanforan. This was developed as the City's effort to unite the three separate parcels at Tanforan into a single planning effort when the City learned that some of the individual parcels were about to be sold. The Fact Sheet articulates a vision for redevelopment that includes office, retail, entertainment, and housing units in a manner that supports a diverse mix of uses. The vision preserves and builds on what the community values about Tanforan while ensuring that it can remain viable into the future and continue to provide important revenue to San Bruno's local economy and city services.

The Reimagining effort was successful. In 2021, an LLC controlled by Alexandria Real Estate Equities (Alexandria) acquired the approximate 15 acre parcel formerly owned by JC Penney and the approximately 14 acre former Sears store owned by Seritage Growth Properties. In 2022 Alexandria acquired the parcels owned by Queensland Investment Corporation encompassing 16.4 acres and including the enclosed mall.

On October 5, 2022, the City received a preliminary project application for a transit-focused mixed-use village comprised of 1,000 housing units, a life science campus, and retail space, including an upgraded Target and Century Theatres. The application encompasses the entire 44-acre Tanforan site. The preliminary project description is provided as Attachment 1.

**DISCUSSION**: This agenda item provides a presentation of an update on the Tanforan preliminary project application submittal and the City's community engagement process.

### **Preliminary Project Application**

The preliminary application submitted by proposes to replace the existing mall with a transit-focused mixed-use village that seeks to retain and upgrade Target and refresh the Century at Tanforan movie theater to accommodate the modern movie going experience. It also includes a meaningful residential component of the project that will help our City meet its significant Statemandated Regional Housing Needs Allocation (RHNA) housing obligations.

The application also includes a proposed life science campus that will be owned and operated by Alexandria Real Estate Equities. Alexandria operates exclusively in the life science market

and is known for its innovations in the industry. Locally that includes campuses in South San Francisco, San Francisco at Mission Bay, and San Carlos.

The fabric that unites these uses is a community-serving series of spaces that connect the development to the BART station and integrates it with the neighborhood around the project site. The project will also retain and incorporate the new Tanforan Memorial, which now permanently honors the thousands of Japanese Americans processed for detainment at Tanforan during World War II and stands as a symbol against future injustice.

### City Review of Preliminary Application

The City has initiated a comprehensive review by all City reviewers. Application feedback will be provided by the City to ensure project is in alignment with the City's vision and requirements. The City will initiate technical analysis, studies, and the California Environmental Quality Act (CEQA) review of project. The City will also work with key stakeholders, agencies, and other interested parties, including SFO and FAA.

### **City's Community Engagement Process**

On October 13, 2022, the City kicked off the initial phase of the City led "Tanforan for San Bruno" community engagement effort. This started with the release of a dedicated City Manager's eNewsletter and launch of the City dedicated engagement website. The purpose of this effort is to keep the community informed of the project and solicit community input throughout the City's planning process. It is a transparent, community-focused effort. The effort is founded on the Reimagining Tanforan vision, and grounding its purpose in an expanded City review process to include substantial community prioritization appropriate to the significance of this project. Following the public introduction and first City meeting on October 25, 2022, a series of community meetings will be held in November at the City engagement storefront to help inform the priorities around San Bruno's future and guide the City's review of the project.

The City's robust community engagement process serves to hear from San Bruno about what's most important. The goal is to establish a shared vision and guiding principles on what matters most to the community as the City studies and understands the application. This conversation will explore Tanforan's past, identify the City's emerging needs and opportunities, and help articulate what matters most to the community. This extended review effort is appropriate due to the significance of the project, its proximity to public transit, and the importance of the opportunity to address emerging and future needs that impact not just the immediate surrounding area, but San Bruno as a whole. The additional community conversation throughout the process will help us take advantage of this once in a generation opportunity, and ensure that the community's priorities are aligned with those of the project applicant to ensure that the next life of Tanforan is successful for everyone.

Key components of the engagement effort include a website and storefront space:

- City Dedicated Website: The City's dedicated website, Tanforanforsanbruno.com, will become a central point of information for this process that will be conducted over the next several months in person and virtually. The website provides context, virtual engagement tools, and application information. It will solicit meaningful virtual input. Questions posted by the public can be responded to. Dates of future meetings and events related to the project will be posted here.
- Engagement Storefront at Tanforan: A storefront space inside Tanforan mall will be utilized by the City for in-person participation. The space will host a variety of meeting formats, including

community meetings, drop in office hours, and small group meetings. The space format is both informational and participatory through exercises that seek to focus feedback on topics that are important and relevant to Tanforan.

The proposed schedule for engagement is as follows:

- November 2022 Community meetings and online engagement begin.
- December 2022 to February 2023 Additional meetings and office hours.
- Early 2023 Community meeting series continued.
- Spring 2023 Develop and deliver a community priorities report to be presented to the City Council.

The outcome of this effort is a report to help establish community priorities based on public input and expert analysis. The identification of community priorities will help focus the City's review of the project. The report will be hosted on website for community to review. Feedback on the report will be taken and engagement will continue throughout 2023.

The City's communication methods to distribute information related to this effort includes the City's social media accounts (Facebook, Instagram, Twitter), City-wide direct mail, email, and various social and digital advertising. For formal meetings on the project, the City will provide public notices mailed to property owners within 1,000 feet on the site, in additional to legal newspaper notices and social media posts.

**NEXT STEPS:** The filing of the preliminary project application is just the start of an approximately 18-to-24 month City review process. The planning entitlement process for the project will include technical studies, environmental analysis and economic assessments. This includes a comprehensive City review for conformance of the project to the City's General Plan, land use regulations, and the analysis required by the State California Environmental Quality Act (CEQA) culminating in the development of a project Environmental Impact Report. The process will include public meetings with the City's Planning Commission, as well as multiple public City Council meetings before being considered for final action.

**FISCAL IMPACT**: There is no fiscal impact from the informational presentation of the Tanforan Preliminary Project Application submittal and update on the City's Community Engagement Process. Consistent with City Council policy to maximize cost recovery for development related services, the project applicant has executed a Reimbursement Agreement with the City to reimburse the full cost of processing the preliminary project application.

**ENVIRONMENTAL IMPACT**: The update on the Tanforan Preliminary Project Application submittal and the City's Community Engagement Process does not have the potential for creation of a significant environmental impact pursuant to the California Environmental Quality Act (CEQA), and as such are exempt from further environmental consideration per CEQA Guidelines Section 15061(b)(3).

**RECOMMENDATION:** That the City Council receive this informational presentation on the Tanforan Preliminary Project Application submittal and update on the City's Community Engagement Process and address any questions or comments to staff.

### **ALTERNATIVES:**

- 1. Receive the report from informational presentation on the Tanforan Preliminary Project Application submittal and update on the City's Community Engagement Process and address any questions or comments to staff; or
- 2. Provide alternative direction to staff.

### **ATTACHMENTS:**

1. Preliminary Project Description

## Tanforan Preliminary Project Application

**1122-1178 El Camino Real** 

San Bruno, CA 94066

Gensler

### PRELIMINARY PROJECT APPLICATION PACKAGE

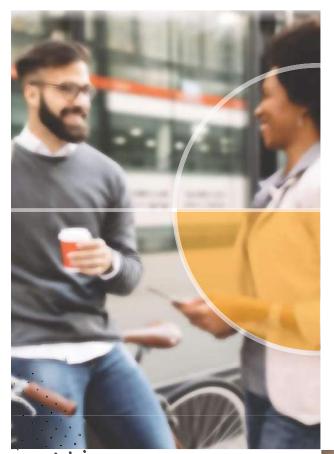
Tanforan, San Bruno

#### Contributors

Alexandria Strada Gensler James Corner Field Operations Alexandria Real Estate Equities (Alexandria), and its development partners, Strada Investment Group (Strada) and MidPen Housing (MidPen), are excited to present this Preliminary Project Application for the redevelopment of the Tanforan site in San Bruno. This Preliminary Project Application is the first step in a series of collaborative planning processes to ensure a successful redevelopment of this 44 acre property that also delivers long term benefits to the San Bruno community. In 2021, Alexandria acquired the approximate 15 acre parcels formerly

owned by JC Penney and the approximately 14 acre former Sears store owned by Seritage Growth Properties. In 2022 Alexandria acquired the parcels owned by Queensland Investment Corporation (QIC) encompassing 16.4 acres and including the enclosed mall. The existing uses on the site are scheduled to close down except for Target and the Century at Tanforan movie theater both of which are performing well, have long-term leases on the property, and will be incorporated in the new development.





Recognizing changes in consumer buying patterns and their negative impact on traditional retail including enclosed shopping malls, the San Bruno City Council adopted the Reimagining Tanforan Land Use Fact Sheet: The City was aware that each then property owner was seeking to sell and or recapitalize its fee simple interest in the Property. Therefore, on July 27, 2021, the City

put forward the Land Use Fact Sheet describing a Strategic Vision for A Transit-Oriented Development of the property. The City described its belief that an intentional clustering of a diverse mix of uses with sustainable infrastructure would ensure the property becomes one of the greenest, most inclusive, and economically viable developments on the San Francisco Peninsula.

### Reimagining

### TANFORAN

Land Use Fact Sheet

### San Bruno, Calífornía



Adopted by the San Bruno City Council / July 27, 2021



**CBRE** 

# Site Opportunities + Constraints

### TRANSIT ORIENTED TANFORAN

The property is a unique development opportunity. It is a large site of approximately 44 acres that allows room for truly transformational planning and design. The property is also incredibly well-served by transit, with an adjacent BART station and a CalTrain station within easy walking distance. In addition, the site is served by the San Bruno exit from Highway 380 providing direct connections to highways 101, 280 and San Francisco International Airport (SFO). Tanforan sits at the nexus of an expanding life science and technology innovation spine spanning the San Francisco Peninsula.

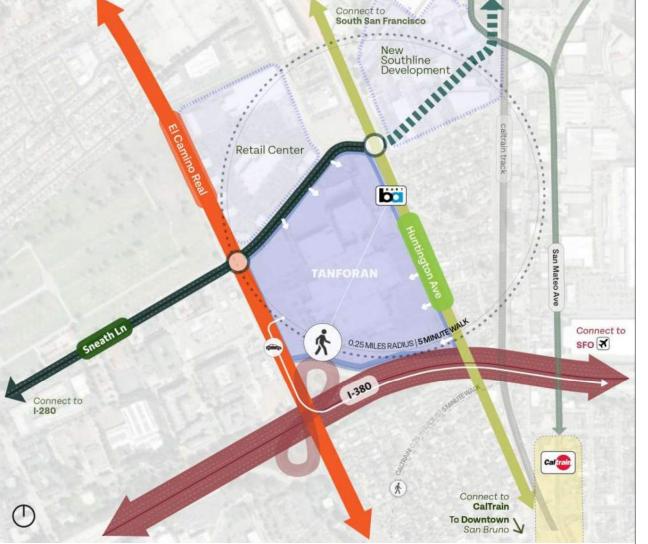


**BART Station** 

Caltrain

CalTrain Line

Roads



### 9

### TANFORAN PRELIMINARY PROJECT APPLICATION HEIGHT RESTRICTIONS

There are a number of height limitations impacting the site. Given its proximity to SFO, Tanforan must strictly comply with the established SFO height limits. All of the buildings as well as any other equipment must be below the established limits. The site is also subject to a voter initiative limiting development on the Tanforan site to the maximum height of the current Target building. As a result of these overlapping constraints, the proposed building structures are planned to be limited to 126'-9" maximum height, as set forth below.

### SFO HEIGHT RESTRICTION 126'9" PLANNING HEIGHT L05 L04 L03 L02 L01

# Land Plan

#### TANFORAN MASTERPLAN GUIDING PRINCIPLES

Alexandria and its development partners are proposing a set of Guiding Principles for redevelopment of the site which is consistent with and supportive of the City's expressed Strategic Vision for A Transit-Oriented Development:

- Compose a new mixed-use transit village with places to work, live, shop and relax.
- Design vibrant gathering places with shops, plazas, restaurants and entertainment.
- Prioritize needed new housing including affordable housing.

- Implement modern sustainability strategies and practices that result in a healthier
- Create a world-class science and innovation center that will be an economic catalyst for the City of San Bruno.
- Honor and preserve the local and cultural heritage of the site. Create new pedestrian, bike and transit connections and physical and programmatic connections to link this site with Downtown San Bruno.













**AN INNOVATION & ECONOMIC CATALYST IN SAN BRUNO** 

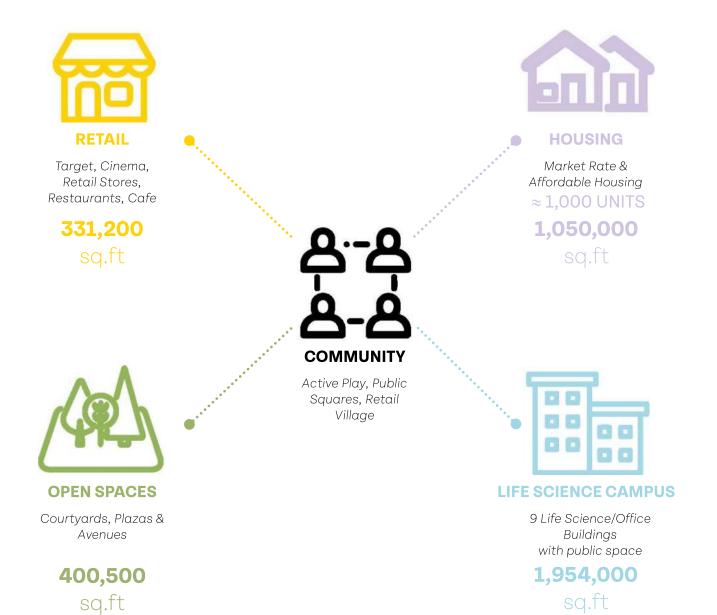


**HONORING &** PRESERVING LOCAL **CULTURAL HERITAGE** 

9











The Project will re-envision and enhance the Target store:

A newly built Target store will be located at the corner of El Camino Real and Sneath Lane with dedicated parking under the store accessed from both El Camino Real and Sea Biscuit Avenue.





The heart of the new Transit Village will have an inviting vehicular and pedestrian entrance at the intersection of Sneath Lane and Sea Biscuit Avenue.





The Century at Tanforan cineplex will remain at its current location but will be improved with an inviting new entrance including a mix of stairs, escalators and elevators framed by additional retail spaces

The large scale of the overall site offers the ability to create meaningful open spaces with a variety of sizes and functions. The comparisons below indicate the scale and types of outdoor uses envisioned.







A well-designed pedestrian and bicycle access pathway will provide a community pathway from El Camino Real along the edge of the new Target store, through the new retail village to the San Bruno BART Station.





At the heart of the project and anchored by Target and the Century at Tanforan is a retail village of approximately 80,000 to 90,000 square feet organized around a series of courtyards, plazas and open spaces creating a new neighborhood center.





A well-designed pedestrian and bicycle access pathway will provide a community pathway from El Camino Real along the edge of the new Target store, through the new retail village to the San Bruno BART Station.





The Project is truly mixed-use with approximately 1,000 housing units organized in three clusters, including an affordable housing community to be developed and managed by MidPen. The resulting on-site affordability percentage will exceed minimum City requirements.

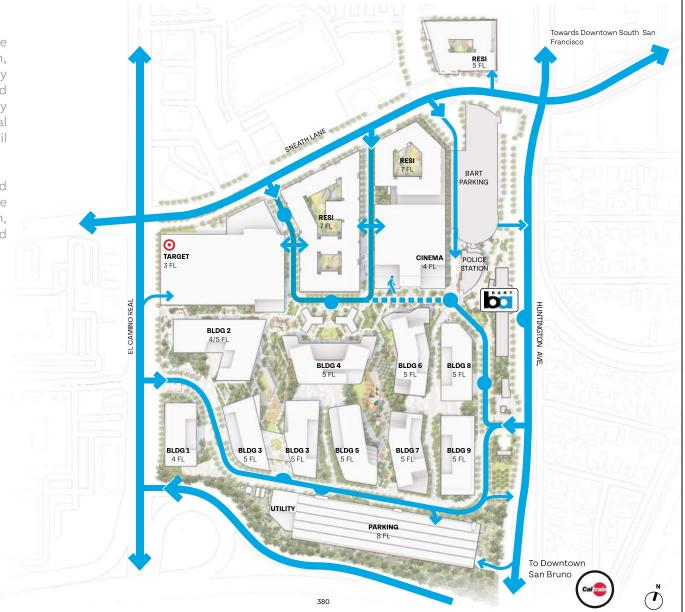


The Project will include an approximately 2,000,000 square foot innovative life science campus. The campus, composed of nine building structures will be organized around a series of open spaces developed in phases over time.

# Mobility

Located north of the interstate 380 freeway, the site has easy vehicular access from the north, east, and west directions. Our first gateway extends from the historic El Camino Real and provides access to Target and laboratory parking. Sneath Lane provides three additional entries leading to residential parking and retail street parking.

The development plan will allow cars, bikes, and pedestrians to move efficiently across the site and establish strong connections to Downtown, CalTrain, BART through El Camino Real and Sneath Lane.



→ Vehicular Circulation

Shared Path

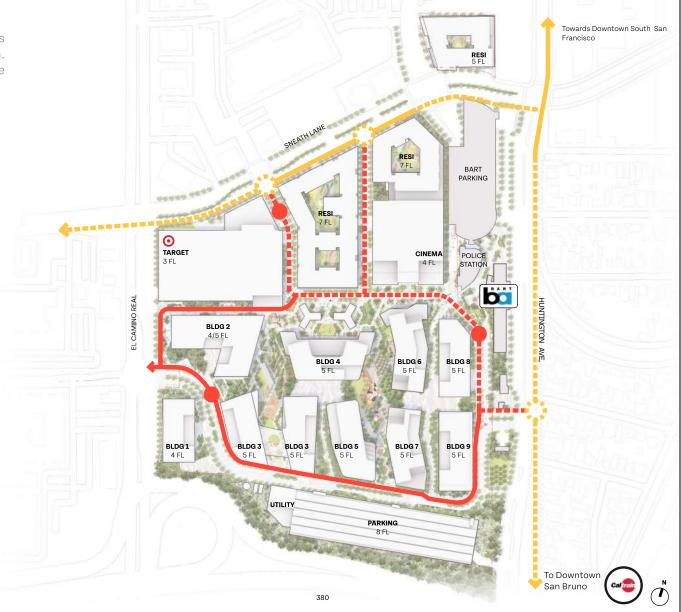
Vehicular dropoffs

Towards Downtown South San The primary public pedestrian connections (shown in blue) allow easy access throughout the site and to BART, El Camino Real and downtown. RESI BART PARKING 0 TARGET CINEMA BLDG 2 BLDG 4 BLDG 6 5 FL BLDG 3 BLDG 5 BLDG 7 BLDG 9

- Primary Public Pedestrian Circulation
- Secondary Pedestrian Circulation

PARKING

To Downtown San Bruno The proposed off-site bike improvements (shown in yellow) are part of the City bike plan. In addition, the development will include on-site bike paths and facilities.



Planned Bike Facilities
Shared Bike Facilities

Existing Bike Facilities

Dedicated Bike Facilities

Connections to Network
Potential Bike Stations

The project will provide the sufficient parking required to serve the development on site. Below grade parking will serve the retail and residential programming on the northern half of the site. Parking for the life science campus is a dedicated 8-level structure that borders the Interstate 380-freeway.



### RESIDENTIAL PARKING

PARKING	# OF STALLS
RESIDENTIAL	1,033
resi a	657
resi b	200
resi c	176

### RETAIL PARKING

PARKING	# OF STALLS
RETAIL	1,850
target	350
cinema	730
retail	32 of 243 <sup>770</sup>

### LIFE SCIENCE PARKING

PARKING	# OF STALLS
LIFE SCIENCE	2,863

# Sustainability

### TANFORAN PRELIMINARY PROJECT APPLICATION EXISTING CONDITIONS

The scale and nature of the development offers a unique opportunity to transform what is today a largely hardscape and non-landscaped site into an urban oasis. The project will employ state-of-the-art sustainability strategies, enhancing environmental conditions throughout the site. Tanforan will be a mixed-use sustainable village, serving as a model in terms of efficient design, water stewardship and healthy community.

In addition to significantly greening the site, the project will utilize state-of-the-art energy and water efficiencies, including:

- Trees and plantings will be selected to support the local environment.
- Implement water efficiency strategies throughout the site.
- · Parking garage and other large roof surfaces to be used for on-site renewable energy.
- · Buildings will be designed to create shade and wind protection.





**EXISTING** 

PROPOSED

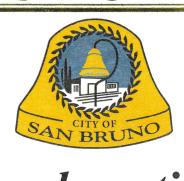
# Phasing

### TANFORAN PRELIMINARY PROJECT APPLICATION PHASING

The entitlement process is expected to take 18 to 24 months. During that time, the development team will work with the City of San Bruno to ensure an authentic, transparent, and robust community engagement process.

The project entitlements are expected to include a Development Agreement. Project phasing will be subject to a number of external factors, including economic conditions and permitting timelines. The first phase of development is expected to include the new Target store, a significant portion of the residential component of the project, the Century at Tanforan improvements and a significant portion of the new retail village and open space improvements that help to form the connection between El Camino Real and BART. Phasing of the life science/office buildings will ultimately depend on tenant demand.





# **Proclamation**

# Declaring November 13–19, 2022 as United Against Hate Week in the City of San Bruno

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

**WHEREAS,** the Constitution of the United States confers equality on all individuals, regardless or race, gender, orientation, religion, or political beliefs; and

**WHEREAS,** recent policies and rhetoric have generated a toxic environment that encourages the propagation of racist, xenophobic, anti-Semitic, sexist, homophobic, Islamaphobic, and other negative views by emboldened hate groups and individuals; and

**WHEREAS**, deep divisions in our country are the result of extreme ideology, further strengthening a cycle of mistrust and suspicion fueled by fear, anxiety, and insecurity; and

**WHEREAS,** the number of hate crimes across the United States has increased dramatically over the past couple of years; and

WHEREAS, the City of San Bruno City Council stands strongly in support of our diverse community, honoring and protecting every individual regardless of race, creed, color, gender, religion, ethnicity, nationality, orientation, or identity; and

**WHEREAS,** education, compassion and cooperation are key to unlocking understanding and embracing differences between people; and

**NOW, THEREFORE, I, Rico E. Medina**, Mayor of the City of San Bruno, do hereby proclaim the week of November 13 – 19, 2022 as

# **UNITED AGAINST HATE WEEK**

and recognizing this important step in bridging divisions to heal and strengthen communities.



Dated this 25th day of October, 2022

Rico E. Medina, Mayor



CITY OF SAN BRUNO

DATE:

October 10, 2022

TO:

Honorable Mayor and Members of the City Council

FROM:

Jovan D. Grogan, City Manager

PREPARED BY:

Bobby Magee, Interim Finance Director

Kathleen O'Malley, Accounting & Customer Service Representative

SUBJECT:

Accounts Payable Warrant Register

This is to certify that the claims listed on pages 1 to 2 inclusive, and/or claims numbered from 199890 through 199968 inclusive, totaling \$2,468,824.13 have been checked in detail and approved by the proper officials, and in my opinion, represent fair and just charges against the City in accordance with their respective amounts. The table below summarizes the total paid by Fund.

Fund	Fund Name	Amount
001	General Fund	-\$36,055.05
201	Parks and Facilities Capital	\$2,142,522.90
203	Street Improvement Projects	\$6,028.00
611	Water Fund	60,202.54
621	Stormwater Fund	13,456.51
631	Wastewater Fund	179,147.96
641	CityNet Services Fund	46,240.75
701	Central Garage	4,966.43
702	Facility Maintenance Fund	39,083.20
707	Technology Development	978.39
711	Self-Insurance	12,252.50
TOTAL FOR APPROVAL		\$2,468,824.13

Respectfully submitted,

Finance Director

10/17/27

Page: 1

Document group:

komalley

Bank: apbank

Vendor Code	e & Name	Check #	Check Date	Amount
0000163	AIRPORT AUTO PARTS INC.	199890	10/10/2022	1,172.89
0097137	ALERT DOOR SERVICE INC	199891	10/10/2022	400.00
0096469	ALMADEN PRESS	199892	10/10/2022	2,591.72
0096700	ANDY'S WHEELS & TIRES	199893	10/10/2022	576.63
0110462	ASLEC HOME CARE	199895	10/10/2022	12.56
0016123	AT&T	199896	10/10/2022	346.88
0017191	AT&T	199897	10/10/2022	53.42
0107986	ATLAS PLUMBING AND ROOTER,INC.	199898	10/10/2022	700.00
0100526	BAY ALARM COMPANY	199901	10/10/2022	838.53
0018653	BAY AREA BARRICADE SVC., INC.	199902	10/10/2022	4,924.31
0105737	BAY CITIES PYROTECTOR, INC.	199903	10/10/2022	450.00
0105553	BELLECCI & ASSOCIATES, INC.	199904	10/10/2022	6,028.00
0110279	BOUCHER LAW, PC	199905	10/10/2022	2,305.50
0103670	CALIFORNIA BUILDING STANDARDS COMMISSION	199950	10/10/2022	718.20
0102989	CALIFORNIA DIESEL & POWER	199906	10/10/2022	12,132.69
0110460	CHRISTY TAN	199952	10/10/2022	31.61
0109731	COOLRITE REFRIGERATION INC.	199910	10/10/2022	891.18
0109788	CORE & MAIN LP	199911	10/10/2022	10,590.92
0002012	CPS HR CONSULTING	199912	10/10/2022	478.70
0018979	CT CORPORATION	199913	10/10/2022	356.00
0109577	DIRECTWORX	199914	10/10/2022	4,547.73
0105820	EAST BAY TIRE CO	199915	10/10/2022	924.79
0017335	FIBER INSTRUMENT SALES INC	199916	10/10/2022	226.25
0109510	FIRST ALARM	199917	10/10/2022	702.00
0109400	FLEETROCK, LLC	199918	10/10/2022	500.00
0108472	FREYER & LAURETA, INC.	199919	10/10/2022	3,902.50
0110467	GABRIELA ANTUNES BARBIN	199900	10/10/2022	11.22
0000162	GRAINGER	199920	10/10/2022	174.27
0000541	GRANITE ROCK COMPANY	199921	10/10/2022	843.44
0017900	GREAT LAKES DATA SYSTEMS INC	199922	10/10/2022	2,300.00
0015531	INTERSTATE BATTERY SYS. OF SF	199924	10/10/2022	457.92
0110458	JEFF LAROCCA	199927	10/10/2022	74.44
0110465	JOSHUA LOVELAND	199930	10/10/2022	15.81
0093434	JT2 INTEGRATED RESOURCES	199925	10/10/2022	12,252.50
0000132	KELLY-MOORE PAINT CO INC.	199926	10/10/2022	391.21
0109771	LATHROP CONSTRUCTION ASSOCIATES, INC.	199908	10/10/2022	1,927,174.93
0017570	LEHR AUTO ELECTRIC	199928	10/10/2022	142.63
0109759	LUHDORFF&SCALMANINI CONSULTING ENGINEERS	199909	10/10/2022	11,446.75
0099127	MANUEL RAPOSO CONSTRUCTION	199931	10/10/2022	5,463.00
0110457	MARIE ROHILAHT	199944	10/10/2022	29.13
0104340	MARY AZZOPARDI	199899	10/10/2022	27.49
0109532	MATRIX HG, INC.	199932	10/10/2022	16,979.68
0110464	MELBOURNE LIPARDO	199929	10/10/2022	77.99
0110435	MELISSA MIGUEL	199933	10/10/2022	50.00
0110463	MORGAN HALLQUIST	199923	10/10/2022	17.83
0000357	NATIONAL CABLE TV CO-OP, INC.	199935	10/10/2022	2,230.95
0103301	NHL NETWORK US, LP	199936	10/10/2022	1,231.00
0104999	NINYO AND MOORE	199937	10/10/2022	113,917.70
0110466	OSCAR SILLA	199948	10/10/2022	18.24
0000012	PACIFIC GAS & ELECTRIC	199939	10/10/2022	38,032.04
0106110	PACIFIC OFFICE AUTOMATION	199940	10/10/2022	487.03
0001327	PENINSULA PUMP & EQUIPMENT INC	199941	10/10/2022	12,642.79
	PRECISION AUTO SERVICE	199942	10/10/2022	79.95

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Vendor Cod	le & Name	Check #	Check Date	Amount
0110459	RAM NARAYAN	199934	10/10/2022	104.42
0107432	RED WING BRANDS OF AMERICA,INC	199943	10/10/2022	244.45
0106502	RYAN NISHIMOTO	199938	10/10/2022	20.05
0110453	SCHOLARSHARE COLLEGE SAVINGS PLAN	199907	10/10/2022	1,000.00
0018461	SERRAMONTE FORD, INC.	199945	10/10/2022	282.59
0097626	SHARP ELECTRONICS CORP.	199946	10/10/2022	446.40
0018962	SHOE DEPOT INC.	199947	10/10/2022	1,055.13
0103492	SMITHSONIAN NETWORKS	199949	10/10/2022	239.28
0105899	SUN RIDGE SYSTEMS, INC	199951	10/10/2022	51,630.00
0101086	T-MOBILE	199959	10/10/2022	83.20
0018813	TANKO LIGHTING	199953	10/10/2022	604.31
0108402	THE HOME DEPOT PRO	199954	10/10/2022	1,009.97
0108402	THE HOME DEPOT PRO	199955	10/10/2022	446.87
0103559	THE MLB NETWORK, LLC	199956	10/10/2022	1,329.48
0106642	THEMA AMERICA, INC.	199957	10/10/2022	43.19
0097449	TK ELEVATOR CORPORATION	199958	10/10/2022	491.78
0110461	TUTOR PERINI CORP.	199960	10/10/2022	98.96
0001362	TV GUIDE MAGAZINE, LLC	199961	10/10/2022	55.68
0102744	UNIVERSAL BUILDING SERVICES	199962	10/10/2022	9,549.14
0099174	WALTER ARGUMEDO	199894	10/10/2022	398.00
0000612	WESTVALLEY CONSTRUCTION CO.INC	199963	10/10/2022	164,427.36
0096893	WILSEY HAM	199964	10/10/2022	1,771.00
0109476	WORLDPAC INC	199965	10/10/2022	829.03
0110037	ZAYO GROUP, LLC	199966	10/10/2022	2,983.89
0104033	ZCORUM, INC.	199967	10/10/2022	17,340.00
0109122	ZERO TURN POWER WASHING	199968	10/10/2022	9,367.00
			GrandTotal:	2,468,824.13

**Total count:** 79



CITY OF SAN BRUNO

DATE:

October 17, 2022

TO:

Honorable Mayor and Members of the City Council

FROM:

Jovan D. Grogan, City Manager

PREPARED BY:

Bobby Magee, Interim Finance Director

Kathleen O'Malley, Accounting & Customer Service Representative

SUBJECT:

Accounts Payable Warrant Register

This is to certify that the claims listed on pages 1 to 3 inclusive, and/or claims numbered from 199969 through 200102 inclusive, totaling \$1,242,605.54 have been checked in detail and approved by the proper officials, and in my opinion, represent fair and just charges against the City in accordance with their respective amounts. The table below summarizes the total paid by Fund.

Fund	Fund Name	Amount
001	General Fund	\$545,909.04
003	One-Time Revenue	\$3,205.92
006	American Rescue Plan Act	\$17,547.44
111	Police Asset Forfeiture	\$2,461.08
132	Agency On Aging	\$3,066.07
133	Restricted Revenues	\$1,620.00
137	Developer Project Contributions	\$31,651.50
201	Parks and Facilities Capital	\$228,197.79
203	Street Improvement Projects	\$100,770.25
207	Technology Capital	\$7,395.00
611	Water Fund	215,800.88
621	Stormwater Fund	7,333.39
631	Wastewater Fund	19,743.30
641	CityNet Services Fund	49,531.63
701	Central Garage	197.92
702	Facility Maintenance Fund	1,273.81
707	Technology Development	6,900.52
TOTAL F	OR APPROVAL	\$1,242,605.54

Respectfully submitted,

Finance Director

10 | 18 | 22 Date

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Vendor Cod	de & Name	Check #	Check Date	Amount
0108322	AARON SUEN	200080	10/17/2022	58.65
0097097	ALBERT BAZOUZI	199977	10/17/2022	1,000.00
0110486	ALEX FUNG	200010	10/17/2022	16.00
0104542	ALTA LANGUAGE SERVICES, INC.	199969	10/17/2022	132.00
0110078	ALTA PLANNING + DESIGN, INC.	199970	10/17/2022	39,849.25
0110471	AMANDA WILLIAMS	200100	10/17/2022	357.49
0109246	AQUA METRIC SALES, CO.	199972	10/17/2022	16,742.76
0016123	AT&T	199973	10/17/2022	433.84
0110450	AUTHORS UNBOUND AGENCY	199974	10/17/2022	2,500.00
0000345	BAKER & TAYLOR BOOKS	199975	10/17/2022	4,357.58
0105553	BELLECCI & ASSOCIATES, INC.	199979	10/17/2022	4,702.45
0109661	BIRITE FOODSERVICE DISTRIBUTORS	200006	10/17/2022	1,146.23
0110478	BOBBY GOMEZ	200013	10/17/2022	41.65
0110371	BOBBY MAGEE	200038	10/17/2022	462.33
0110451	CAFE OHLONE, LLC	199980	10/17/2022	750.00
0018048	CALLANDER ASSOCIATES LANDSCAPE ARCHITECT	200034	10/17/2022	3,564.47
0093725	CALTRANS	199981	10/17/2022	7,128.39
0106548	CAPITAL ONE TRADE CREDIT	199982	10/17/2022	29.71
0110474	CAROLINE HSIA	200023	10/17/2022	7.66
0017679	CDW GOVERNMENT, INC	199984	10/17/2022	456.39
0017284	CHEMSEARCHFE	199985	10/17/2022	428.51
0016324	CINTAS CORPORATION #464	199986	10/17/2022	355.34
0000227	CITY OF SAN BRUNO	199987	10/17/2022	4,460.84
0109998	CONSOR PMCM, INC.	199990	10/17/2022	66,742.50
0109788	CORE & MAIN LP	199991	10/17/2022	174.17
0107652	CUMMINS-ALLISON CORP.	199992	10/17/2022	1,005.78
0106909	DALIA MANAOIS	200039	10/17/2022	500.00
0108073	DARCY SMITH	200074	10/17/2022	1,060.43
0110476	DASHA FIGUEROA	200003	10/17/2022	11.22
0018188	DAU PRODUCTS	199993	10/17/2022	14,390.47
0110482	DAVID SELIGMAN	200069	10/17/2022	63.64
0013926	DEPARTMENT OF CONSERVATION	199996	10/17/2022	1,814.21
0109577	DIRECTWORX	199997	10/17/2022	2,082.14
0110442	ELISEO AMAYA	199971	10/17/2022	500.00
0000046	EWING IRRIGATION PRODUCTS INC	199999	10/17/2022	2,432.82
0013683	F. FERRANDO & CO.	200000	10/17/2022	7,682.00
0110072	FIRST REPUBLIC BANK	200004	10/17/2022	101,430.27
0018117	FLYERS ENERGY, LLC	200005	10/17/2022	43,375.33
0109776	FRESH LINE PRODUCE	200008	10/17/2022	307.25
0108472	FREYER & LAURETA, INC.	200009	10/17/2022	205.00
0105998	GHD, INC.	200011	10/17/2022	635.25
0110477	GIDEON MOHLER	200045	10/17/2022	60.90
0108415	GOLDEN BAY CONSTRUCTION, INC.	200012	10/17/2022	24,639.20
0109976	GOVERNMENTJOBS.COM, INC.	200012	10/17/2022	69,072.99
0109976	GOVERNMENTJOBS.COM, INC.	200015	10/17/2022	1,500.00
0000162	GRAINGER	200016	10/17/2022	760.76
0095966	GREAT AMERICA FINANCIAL SVC.	200017	10/17/2022	715.38
0017900	GREAT LAKES DATA SYSTEMS INC	200017	10/17/2022	2,300.00
0108302	GRIFFIN STRUCTURES, INC.	200010	10/17/2022	68,516.17
0016967	GROUP 4	200019	10/17/2022	50,829.62
0000385	HACH COMPANY	200020	10/17/2022	4,169.01
0110473	HANNAH ROSENZWEIG	200021	10/17/2022	4,169.01 8.42
0109502	HAULAWAY STORAGE CONTAINERS, INC.	200079	10/17/2022	255.36
UTUBUUZ	HAGEAWAI GIGIAGE GONIAINENG, ING.	200078	10/11/2022	200,30

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Vendor Code	e & Name	Check #	Check Date	Amount
0096946	HDR ENGINEERING, INC.	200022	10/17/2022	30,193.75
0109600	IMPACT JUSTICE	200024	10/17/2022	2,461.08
0018553	INTERSTATE TRAFFIC CONTROL PRODUCTS	200088	10/17/2022	1,449.22
0110479	JAMES BALDASSARE	199976	10/17/2022	99.20
0104784	JD CESARE CONSTRUCTION	200025	10/17/2022	2,000.00
0108549	JEANETTE M FEINBERG	200001	10/17/2022	126.00
0110238	JERICHO PROJECT	200026	10/17/2022	42,015.00
0110483	JOSEPH ESTOLAS	199998	10/17/2022	28.00
0098988	JULIO CATALAN	199983	10/17/2022	37.39
0000075	K-119 TOOLS OF CALIFORNIA INC.	200029	10/17/2022	49.34
0096379	KAREN OJAKIAN	200050	10/17/2022	123.30
0017661	KATHY M SCHMIDT	200068	10/17/2022	1,482.30
0000317	L.N. CURTIS & SONS	200031	10/17/2022	12,875.15
0109565	LAND LOGISTICS, INC.	200033	10/17/2022	12,577.50
0103799	LDVALI LLC	200035	10/17/2022	464.40
0110480	LISA BEHRAVESH	199978	10/17/2022	26.95
0110309	LOOKINGPOINT, INC.	200036	10/17/2022	7,395.00
0018177	LOWE'S	200037	10/17/2022	3,681.89
0110454	MARIACHI SAN CARLOS	200040	10/17/2022	1,125.00
0110487	MICHAL WICINSKI	200099	10/17/2022	44.25
0092285	MICROMARKETING LLC	200042	10/17/2022	63.78
0016863	MIDWEST TAPE, LLC	200043	10/17/2022	96.89
0110164	MISCOWATER	200044	10/17/2022	678.76
0098639	MUNICIPAL RESOURCE GROUP, LLC	200046	10/17/2022	11,996.25
0000357	NATIONAL CABLE TV CO-OP, INC.	200047	10/17/2022	1,127.69
0109800	NICOLE LAJOIE	200032	10/17/2022	1,624.50
0107384	NORMAN JUSSAUME	200028	10/17/2022	33.15
0018157	OCLC INC	200048	10/17/2022	432.32
0110243	ODP BUSINESS SOLUTIONS, LLC	200049	10/17/2022	967.22
0097567	ONE HOUR DRY CLEANING	200051	10/17/2022	331.00
0103933	OWEN EQUIPMENT SALES	200053	10/17/2022	3,305.48
0000012	PACIFIC GAS & ELECTRIC	200054	10/17/2022	101,228.86
0106829	PACIFIC OFFICE AUTOMATION INC.	200055	10/17/2022	283.48
0110469	PAUL KAISER	200030	10/17/2022	14.63
0001154	PENINSULA LIBRARY SYSTEM	200056	10/17/2022	163.91
0108589	PERFORMANCE FOODSERVICE-LEDYARD	200007	10/17/2022	1,428.91
0110481	PHILIP DAVID	199994	10/17/2022	15.95
0000294	PITNEY BOWES	200057	10/17/2022	2,593.30
0018861	PITNEY BOWES	200058	10/17/2022	6,000.00
0108277	PIVOT GROUP LLC	200059	10/17/2022	12,240.00
0013981	QUILL CORPORATION	200060	10/17/2022	40.95
0108301	R3 CONSULTING GROUP	200061	10/17/2022	16,332.50
0110472	REBECCA TOVAR	200087	10/17/2022	7.74
0109904	REMOTE SATELLITE SYSTEMS INTERNATIONAL, INC	200083	10/17/2022	5,248.00
0110468	ROB MARTINUCCI	200041	10/17/2022	15.38
0106293	ROBERT HALF	200063	10/17/2022	16,704.00
0110484	ROBIN DAVID JI	200027	10/17/2022	36.75
0108539	ROSALIE L. STEINWAY	200078	10/17/2022	189.00
0110352	RYAN O'SULLIVAN	200052	10/17/2022	360.00
0099047	SAN MATEO CTY SHERIFF'S OFFICE	200066	10/17/2022	23,295.20
0018597	SAN MATEO DAILY JOURNAL	200067	10/17/2022	2,610.00
0108537	SCOTT TONG	200086	10/17/2022	94.50
0102917	SFPUC FINANCIAL SERVICES	200070	10/17/2022	50.00
0.000				

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Vendor Cod	endor Code & Name		Check Date	Amount
0110485	SHIRLEY FERNANDO	200002	10/17/2022	115.93
0018962	SHOE DEPOT INC.	200072	10/17/2022	942.95
0000216	SHOWTIME NETWORKS INC.	200073	10/17/2022	7,625.65
0110326	SNG & ASSOCIATES, INC.	200075	10/17/2022	14,418.75
0000102	SONITROL/PACIFIC WEST SECURITY, INC.	200098	10/17/2022	490.00
0110475	SOPHIA CIZMARIK	199988	10/17/2022	9.47
0017508	SOUTH CITY LUMBER AND SUPPLY	200076	10/17/2022	122.45
0105481	STARVISTA	200077	10/17/2022	17,944.87
0110470	STEVE DEDO	199995	10/17/2022	100.20
0105796	SUNRISE FOOD DISTRIBUTOR INC.	200081	10/17/2022	183.68
0102962	SWANK MOTION PICTURES, INC.	200082	10/17/2022	495.00
0096932	TASC	200084	10/17/2022	210.50
0000241	THE ADAM-HILL COMPANY	200085	10/17/2022	<b>4</b> 64.26
0018083	THE CROSSING SAN BRUNO PROPERTY OWNERS /	200065	10/17/2022	3,205.92
0110452	THE GREENFIELD REVIEW LITERARY CENTER	200062	10/17/2022	2,400.00
0103736	TURF STAR, INC.	200089	10/17/2022	556.87
0109746	TWINING, INC.	200090	10/17/2022	94.50
0098625	UPS	200091	10/17/2022	106.42
0106439	URBAN FUTURES, INC.	200092	10/17/2022	8,012.00
0016835	US BANK NATIONAL ASSOCIATION	200093	10/17/2022	875.00
0109381	VMI INC	200094	10/17/2022	8,564.76
0110456	VSB DESIGNS	200095	10/17/2022	1,494.80
0108652	WATER WORKS ENGINEERS, LLC	200096	10/17/2022	95,921.27
0096767	WEST COAST ARBORISTS, INC.	200097	10/17/2022	27,750.00
0105955	WEST COAST CODE CONSULTANTS, INC.	199989	10/17/2022	148,856.99
0096893	WILSEY HAM	200101	10/17/2022	15,204.50
0110037	ZAYO GROUP, LLC	200102	10/17/2022	1,525.60
			GrandTotal:	1,242,605.54
			Total count:	134



CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

PREPARED BY: Anh Tran, Management Analyst II

**SUBJECT:** Payroll Acceptance

City Council acceptance of the City payroll distributed October 14, 2022 is recommended. The Labor Summary report reflecting the total payroll amount of \$1,671,767.79 for bi-weekly pay period ending October 9, 2022 by fund is shown below:

Fund	Amount
Fund: 001 - GENERAL FUND	1,218,317.38
Fund: 006 - AMERICAN RESCUE PLAN ACT	60,131.67
Fund: 122 - SOLID WASTE/RECYCLE	244.49
Fund: 132 - AGENCY ON AGING	1,368.09
Fund: 137 - DEVELOPER PROJECT CONTRIBUTIONS	5,407.81
Fund: 201 - PARKS AND FACILITIES CAPITAL	285.70
Fund: 203 - STREET IMPROVE. PROJECTS	12,472.82
Fund: 611 - WATER FUND	87,108.24
Fund: 621 - STORMWATER FUND	29,138.14
Fund: 631 - WASTEWATER FUND	83,184.47
Fund: 641 - CITYNET SERVICES FUND	88,732.57
Fund: 701 - CENTRAL GARAGE	14,191.55
Fund: 702 - FACILITY MAINT.FUND	38,993.01
Fund: 707 - TECHNOLOGY DEVELOPMENT	24,723.55
Fund: 711 - SELF INSURANCE	7,468.30
Total:	1,671,767.79
104411	

Bobby Magee, Interim Finance Director

Docusigned by:

10/19/2022

Date



CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Jennifer Dianos, Assistant to the City Manager

**SUBJECT**: Receive Written Update on the City's Response Efforts to COVID-19

**BACKGROUND**: This report is to provide an update on the City's response efforts to COVID-19, while the Emergency Operations Center (EOC) is activated. The information provided in this report is as of the time it was produced and may be subject to change.

**DISCUSSION**: San Mateo County Health provides regular COVID-19 data dashboards through their website, smchealth.org. San Mateo County Health reports as of Oct. 12, 2022, there are a total of 346 cases within the last 30 days in the City of San Bruno and approximately 94.5% of San Bruno residents are vaccinated. Additional statistics are attached to this report.

There are no operational modifications to report to the City Council.

COVID-19 bivalent boosters are available - visit myturn.ca.gov to find the closest pharmacy or clinic.

**FISCAL IMPACT**: Since the declaration of emergency in March of 2020, the City of San Bruno has recorded the emergency expenditure of \$200,120 out of the City's emergency reserve funds for COVID related operations. In total, the City has recorded a total COVID related expenditure of \$2.08 million including facilities enhancement projects (i.e. keyless entry system to City Hall), COVID-19 personal protective equipment (PPE) supplies, and initial response and adaptation to remote programming/services.

There are no additional expenditures to report for the specific period of this report.

**ENVIRONMENTAL IMPACT**: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

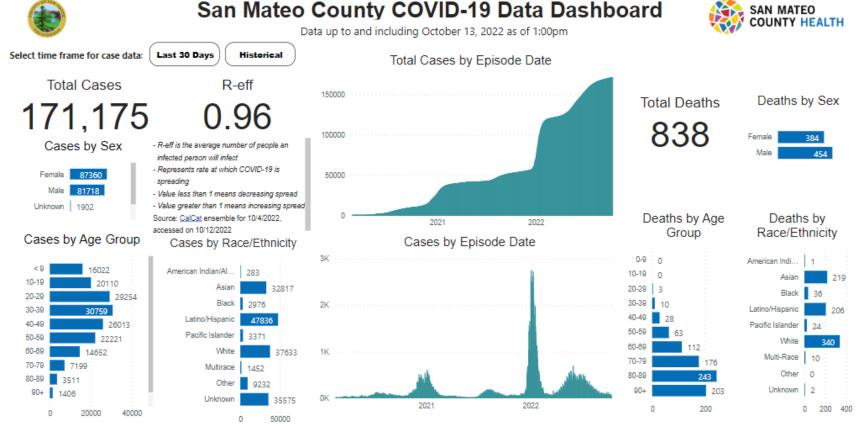
**RECOMMENDATION:** Receive Written Update on the City's Response Efforts to COVID-19

**ALTERNATIVES:** The City of San Bruno's Emergency Operations Center remains activated and there are no alternatives proposed at this time.

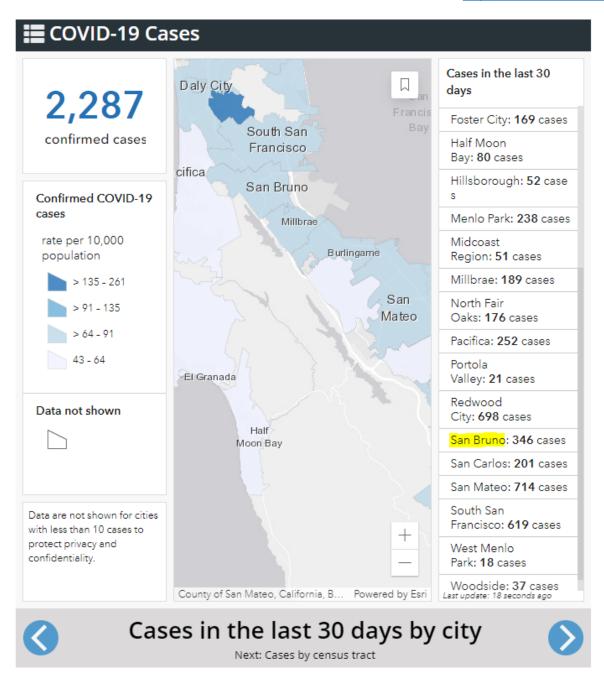
## **ATTACHMENTS:**

1. San Mateo County Health Department COVID-19 Data Dashboard

(Dashboard screen shots taken on 10/19/2022 @ 9:45 a.m.)



Because of limited testing capacity, the number of cases detected through testing represents only a small portion of the total number of likely cases in the County. COVID-19 data are reported as timely, accurately, and completely as we have available. Data are updated as we receive information that is more complete and will change over time as we learn more. Cases are lab-confirmed COVID-19 cases reported to San Mateo County Public Health by providers, commercial laboratories, and academic laboratories, including reporting results through the California Reportable Disease Information Exchange. A lab-confirmed case is defined as detection of SARS-CoV-2 RNA in a clinical specimen using a molecular amplification detection test. Cases are counted by episode date; episode date; episode date is defined as the earliest of: case symptom onset date, sample collection date, date of laboratory result, or date of death. Deaths reported in this dashboard include only San Mateo County residents; death data last updated October 12, 2022.



#### COVID 19 Vaccinations of San Mateo County Reside... as of 10/12/2022 **2** 721,522 leccinations by city are calculated by geocoding and aggregating self-reported % Vaccinated city or town. In instances where geocoding is not possible (due to rimacorough, e za se Individuals with at least 1 dose La Honda\*: >95% Ladera\*: >95% **COVID 19 Vaccinations** Loma Mar\*: >95% % Vaccinated coding errors and instability of veccination counts and population Menlo Park: >95% ints. Please interpret this map with caution. Midcoest Region: 59.6% Millbrae: >95% 85% - 95% North Fair Oaks: 88% Pacifica: 88.3% Top 20 Vaccinated Cities (% Vaccinated) Pescadero\*: >95% Portola Valley: >95% Redwood City: >95% Burlingeme Sen Cerlos San Bruno: 94.5% Emereld Hills Redwood City San Carlos: >95% Woodside Sen Metco San Mateo: >95% Pasapdaro\* South San Francisco: 91.3% Portole Velley Le Hande\* West Menlo Park: 93.4% Half Moon Bay Woodside: >95% Lome Mer\* Click here for veccination rates for Hillsborough 10+, 16+, and 65+ Balmont Millbree \*Population estimates are less Redwood City precise for towns with small 10 km populations. The vaccine eligible Feater City population may be higher or lower Sen Bruno 6 mi Note 90% Esri, HERE, Garmin, USGS, EPA, N...

# Total Individuals Vaccinated

10/12/2022

County Population: 774,990 % Vaccinated: 93% % Series Completed: 86% %5+ years 1st Additional/Booster dose: 64% %50+ years 2nd Booster dose: 37% %65+ years 2nd Booster dose: 46% Date Administered

#### from

8/1/2020

Individuals Who Completed Vaccination Series

% Completed Vaccination Series of those with at least 1 dose



Total Vaccine Doses Administered 2,032,105

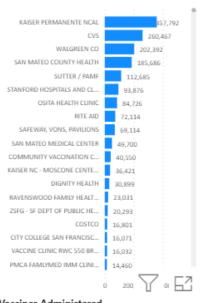
# **COVID 19 Vaccinations of San Mateo County Residents**

Vaccinations for San Mateo County residents are reported to SMC Public Health via the California Immunization Registry (CAIR2). COVID-19 vaccine administration data are reported as timely, accurately, and completely as data become available. Previous data will change as new and updated data are received.

# Vaccine Doses Administered by Date ■ Vaccine Doses Administered ■ Cumulative Vaccine Doses Administered 2,000,000 1,500,000 1.000.000 500.000 Apr 2021 Jul 2021 Oct 2021 Jan 2022

Note: Vaccine Doses Administered by Date includes any doses administered to residents. Recipient Vaccination Status by Date

#### Vaccines Administered By



#### Vaccines Administered



Note: Vaccination Series Completed represents those who have received the second dose of a two dose vaccine (Pfizer and Moderna) and those who have received one dose of a single dose vaccine (Janssen). Additional/Booster Doses include additional doses for immunocompromised individuals and booster doses. Data for boosters are preliminary and subject to revision.

Vaccinations administered as part of federal health care organizations or programs such as the Department of Veterans Affairs (VA) report to federal immunization systems, may not report into CAIR2, and may not be included in vaccination numbers on the dashboard



CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

PREPARED BY: Matthew Lee, Public Works Director

**SUBJECT**: Adopt Resolution Authorizing the City Manager to Execute an Agreement

for Consultant Services With Pavement Engineering Inc. for Pavement Evaluation Services for the 2021-22 Street Reconstruction Project in an

Amount Not to Exceed \$255,720

**BACKGROUND**: The City's Capital Improvement Program (CIP) includes the Pavement Management Program (PMP) to repair and apply preventative maintenance treatment to local, collector, and arterial streets. As part of the PMP, the condition of City streets is routinely assessed and recommendations are made on the streets to be selected for rehabilitation to cost effectively maximize pavement longevity. Street condition is measured in terms of pavement condition index (PCI), a numerical index between 0 and 100 in which 0 represents a failed street and 100 represents a newly paved street. The City has a current average Citywide PCI of 62.

Senate Bill 1 (SB1), also referred to as the Road Repair and Accountability Act of 2017, increased the per gallon fuel excise taxes and vehicle registration fees to fund road maintenance and rehabilitation projects on local streets and roads systems. For the FY 2022-23, the City received approximately \$995,000 of SB1 funding. In order to receive this funding, the City was required to submit to the California Transportation Commission (CTC) a list of projects proposed to be funded with the SB1 funds and adopt those projects by resolution at a regular public meeting by July 1, 2022. On June 14, 2022, City Council adopted a list of projects for fiscal year 2022-23 to be funded by SB1. Projects funded by SB1 are included in the City's 2021-22 Street Reconstruction Project.

The list of streets identified in Attachment 3 will be included in the upcoming pavement evaluation effort. Upon completion of a detailed pavement evaluation, future paving projects on failed streets can be more accurately budgeted and the City can begin to more quickly address and repave with a more cost-effective treatment for those streets on the failed and near failed list.

**DISCUSSION**: In September 2022, the City issued a Request for Proposals (RFP) for the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project.

The scope of work consists of collecting core samples, performing deflection testing, and

developing design recommendations. As mentioned in the Background section, the pavement condition of a street segment is represented using PCI. The basis of PCI is a visual assessment of various types and severity of pavement deterioration. Though these visual assessments are a cost-effective way to provide high-level condition information, they do not necessarily indicate whether a visually failed street is structurally failed. Performing this pavement evaluation will allow the City to determine which streets are structurally failed.

For those street segments that are structurally sound, they can potentially be repaired with more cost-effective pavement treatments such as asphalt concrete overlays. The more cost-effective treatments may be implemented in an earlier timeframe compared to pavement reconstruction. This can be done in conjunction with future asphalt concrete overlay efforts.

Qualified consultants were invited to submit proposals to conduct pavement testing and analysis, to provide rehabilitation recommendations based on findings, and to develop and prepare a design report. The Request for Proposals was sent to (5) five consultants from a qualified on-call vendor list and posted on the City's website.

On September 9, 2022, staff received (2) two proposals. Staff conducted an evaluation on the received proposals based on the following criteria:

- Proposed work plan and approach
- Familiarity with policies and procedures relation to the work effort
- Quality and completeness
- Relevance and conciseness
- Qualifications and experience of staff
- Qualifications relating to pavement analysis and design
- Completion of similar projects and references
- Manpower allocation

Based on the evaluation of proposals, staff is recommending Pavement Engineering Inc. to provide professional engineering services for the scope of work described above. Pavement Engineering Inc. (PEI) is highly qualified, has demonstrated accurate project understanding, has substantial design experience on pavement projects and has successfully completed similar design projects for the City of Concord, City of Berkeley, City of San Bruno, and other public municipalities across the Bay Area. PEI previously successfully provided pavement evaluation services for the City of San Bruno in 2019.

Prior to the RFP issued in September 2022, the City had issued a RFP in October 2021 to evaluate 5 streets on the failed list. Based on their qualifications PEI was selected to perform the work. An agreement for this work in the amount of \$35,280 is in place. In addition to expediting the overall street evaluation process, City staff anticipated that there could be economies of scale in issuing a RFP for all the streets on the failed and near failed streets list, which is the case.

PEI has been selected to provide pavement evaluation services due to their experience, professionalism and reliability. With the information collected by PEI and recommendations provided, detailed design can be performed.

**FISCAL IMPACT**: The Pavement Evaluation Services for the 2021-22 Street Reconstruction Project is a project within the approved FY 2022-23 Capital Improvement Program. The cost of this contract is \$255,720 and within the total project budget available in the current fiscal year. The total estimated costs for the project are in this section.

## Total estimated cost for the project:

Consultant Cost for Pavement Evaluation	\$ 255,720
Estimated Staff Management for Pavement Evaluation	\$ 40,000
Total Current Estimate:	\$ 295,720

**ENVIRONMENTAL IMPACT**: This project falls withing the Categorical Exemption set forth in CEQA guidelines, Section 15306, which exempts basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

**RECOMMENDATION:** Adopt resolution authorizing the City Manager to execute an agreement for consultant services with Pavement Engineering Inc. for the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project in an amount not to exceed \$255,720.

**ALTERNATIVES:** Do not adopt resolution authorizing execution of agreement, and request staff to issue a new request for proposals. This action would result in the delay of data collection used for the design of various City pavement repair projects.

## **ATTACHMENTS:**

- 1. Resolution
- 2. CIP Budget
- 3. Street Evaluation List

# RESOLUTION NO. 2022-

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR CONSULTANT SERVICES WITH PAVEMENT ENGINEERING INC. FOR THE PAVEMENT EVALUATION SERVICES FOR THE 2021-22 STREET RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED \$255,720

**WHEREAS**, the City's Capital Improvement Program (CIP) includes the Pavement Management Program (PMP) to repair and apply preventative maintenance treatment to local, collector, and arterial streets; and

**WHEREAS**, as part of the PMP, the condition of City streets is routinely assessed and recommendations are made on the streets to be selected for rehabilitation to cost effectively maximize pavement longevity; and

**WHEREAS,** senate Bill 1 (SB1), also referred to as the Road Repair and Accountability Act of 2017, increased the per gallon fuel excise taxes and vehicle registration fees to fund road maintenance and rehabilitation projects on local streets and roads systems; and

**WHEREAS,** in order to receive this funding, the City was required to submit to the California Transportation Commission (CTC) a list of projects proposed to be funded with the SB1 funds and adopt those projects by resolution at a regular public meeting by July 1, 2022; and

**WHEREAS**, on June 14, 2022, the City Council adopted a list of projects for fiscal year 2022-23 to be funded by SB1 which included the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project; and

**WHERE AS,** in September 2022, the City issued a Request for Proposals for the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project; and

WHERE AS, on September 9, 2022, staff received (2) two proposals; and

**WHERE AS**, the scope of work consists of collecting core samples, performing deflection testing, and developing design recommendations; and

**WHERE AS,** based on the evaluation, staff is recommending Pavement Engineering Inc. to provide professional engineering services for the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project; and

**WHERE AS**, pavement Engineering Inc. (PEI) is highly qualified, has demonstrated accurate project understanding, has substantial design experience on pavement projects and has successfully completed similar design projects for the City of Concord, City of Berkeley, City of San Bruno, and other public municipalities across the Bay Area; and

**WHERE AS**, pavement Engineering Inc. previously successfully provided pavement evaluation services for the City of San Bruno in 2019; and

**WHERE AS,** prior to the RFP issued in September 2022, the City had issued a RFP in October 2021 to evaluate 5 streets on the failed list and based on their qualifications, PEI was selected to perform the work; and

**WHERE AS,** in addition to expediting the overall street evaluation process, City staff anticipated that there could be economies of scale in issuing a RFP for all the streets on the failed and near failed streets list, which is the case; and

**WHERE AS,** the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project is a project within the approved FY 2022-23 Capital Improvement Program; and

**WHEREAS**, the cost of this contract is \$255,720 and within the total project budget available in the current fiscal year.

**NOW, THEREFORE, BE IT RESOLVED** that the San Bruno City Council hereby authorize the City Manager to execute an agreement for consultant services with Pavement Engineering Inc. for the Pavement Evaluation Services for the 2021-22 Street Reconstruction Project in an amount not to exceed \$255,720.

Dated: Oct	ober 25, 2022	
ATTEST:		
Vicky Hash	a, Deputy City Clerk	
VICKY Hash	-000-	
	I, Vicky Hasha, Deputy City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 25th day of October 2022 by the following vote:	
AYES:	Councilmembers:	
NOES:	Councilmembers	
ARSENT.	Councilmembers:	

# **CIP BUDGET**

# Streets Capital

# Street Rehabilitation

# Pavement Management Program - 2021-22 Street Reconstruction Project

PROJECT #: 60018 Total Project Budget: \$ 3,255,329

DEPARTMENT: Public Works			FY2022-23												Total		
FUNDING SOURCES	Ap	Prior propriations		Estimated Carryover	Ne	w Request		otal priations	F	Y2023-24	FY20	)24-25	FY2	2025-26	FY2	026-27	FY2023-27 Budget
Gas Tax (SB1) RMRA		2,272,000		2,200,101		983,329	3	3,183,430		-		-		-		-	3,183,430
Total	\$	2,272,000	\$	2,200,101	\$	983,329	\$ 3	3,183,430	\$	-	\$	-	\$	-	\$	-	\$ 3,183,430
PROJECT APPROPRIATIONS	Ap	Prior propriations		Estimated Carryover	Ne	w Request		otal priations	F	Y2023-24	FY20	024-25	FY2	2025-26	FY2	026-27	FY2023-27 Budget
Construction	\$	2,272,000	\$	2,200,101	\$	983,329	\$ 3	3,183,430	\$	-	\$	-	\$	-	\$	-	\$ 3,183,430

**Project Description:** The 2021-22 Street Reconstruction Project includes the rehabilitation and reconstruction of failed streets: Santa Helena Avenue, Mills Avenue, Poplar Avenue, Eastburn Court, Bayshore Circle WB, Darby Place, Oxford Lane and additional streets approved in FY 2022-23.



#### **Project Details**

Initial Funding Year	FY2019-20	
Target Completion Year	FY2022-23	
Expended as of July 1, 2021	\$ 71,899.00	

# **ATTACHMENT 3**

# **Street Evaluation List**

STREET	BEGIN	END
SCENIC COURT	PARKVIEW DRIVE	END
TULARE DRIVE	MONTEREY DRIVE	AMADOR AVENUE
LOMITA AVENUE	LINDEN AVENUE	CITY LIMITS
HAMILTON AVENUE	TRENTON DRIVE	CRESTMOOR DRIVE
TOYON WAY	ROLLINGWOOD DRIVE	CATALPA WAY
BAYSHORE CIRCLE EB	HUNTINGTON AVE EAST	HERMAN STREET
ALCOTT DRIVE	BENNINGTON DRIVE	ROSEWOOD DRIVE
WENTWORTH DRIVE	N. CITY LIMITS	OLYMPIC DRIVE
REID AVENUE	LINDEN AVENUE	ELM AVENUE
ACACIA AVENUE	CRYSTAL SPRINGS AVENUE	ANGUS AVENUE
LINDEN COURT	LINDEN AVENUE	CUL-DE-SAC
DIAMOND STREET	HERMAN STREET	BUENA VISTA AVENUE
CHILTON LANE	HIGHLAND DRIVE	END
PALOMAR COURT	DONNER AVENUE	DEAD END
MONTGOMERY AVENUE	SCOTT STREET	NORTH CITY LIMITS
FLEETWOOD DRIVE	CATALPA WAY	ROLLINGWOOD DRIVE
ESSEX COURT	TRENTON DRIVE	END
LOWELL AVENUE	BENNINGTON DRIVE	ROSEWOOD DRIVE
KEEFE COURT	ROSEWOOD DRIVE	CUL-DE-SAC
COLBY WAY	PACIFIC HEIGHTS BLVD	HIGHLAND DRIVE
LONDON COURT	CRESTMOOR DRIVE	CUL-DE-SAC
POPLAR AVENUE	SANTA LUCIA AVENUE	CRYSTAL SPRINGS AVENUE
BRYANT WAY	SKYLINE BLVD	CUL-DE-SAC
OAK AVENUE	CRYSTAL SPRINGS AVENUE	PARK AVENUE
ATLANTIC AVENUE	SAN MATEO AVE	RR TRACKS
ROLLINGWOOD DRIVE	SNEATH LANE	FLEETWOOD DRIVE
HIGHLAND DRIVE	ELSTON DRIVE	PACIFIC HEIGHTS BLVD
MUIRFIELD CIRCLE	OAKMONT (N)	OAKMONT (S)
HUNGTINGTON AVENUE	SNEATH LANE	NOOR AVENUE (N. CITY LIMITS)
ENGVALL ROAD	SNEATH LANE	END
BUENA VISTA AVENUE	EAST HUNGTINGTON AVENUE	HERMAN STREET
CHERRY AVENUE	NILES AVENUE	JENEVEIN AVENUE
BIRCH COURT	GREENWOOD DRIVE	CUL-DE-SAC
LEXINGTON WAY	KINGSTON AVENUE	CRESTMOOR DRIVE
CHERRY AVENUE	PARK AVENUE	SAN BRUNO AVENUE
CORONADO WAY	END	HIGHLAND DRIVE
EUCALYPTUS WAY	ROLLINGWOOD DRIVE	SEQUOIA AVENUE

# **ATTACHMENT 3**

ELDER COURT	EUCALYPTUS WAY	CUL-DE-SAC
ARBOR COURT	GREENWOOD DRIVE	CUL-DE-SAC
PEIDMONT AVENUE	CRESTMOOR DRIVE	MADISON AVENUE
OAKMONT DRIVE	OLYMPIC DRIVE	N. CITY LIMITS
RIVERSIDE DRIVE	SNEATH LANE	MORELAND DRIVE
HIGHLAND DRIVE	MOULTON DRIVE	YSABEL DRIVE
LINDEN AVENUE	JENEVEIN AVENUE	KAINS AVENUE
SAN BRUNO AVENUE WB	100 W/O CRETMOOR DRIVE	GLENVIEW DRIVE
SAN BRUNO AVENUE WB	GLENVIEW DRIVE	SKYLINE BLVD
BAYHILL DRIVE	CHERRY AVENUE	END
SNEATH LANE WB	HUNTINGTON AVE EAST	EL CAMINO REAL
PEPPER DRIVE	CEDAR AVENUE	CEDAR AVENUE
WHITECLIFF WAY	TRENTON DRIVE	CHARLESTON AVENUE
ANGUS AVENUE WEST	ELM AVENUE	ACACIA AVENUE
OLIVE COURT	KAINS AVENUE	CUL-DE-SAC
TURNBERRY DRIVE	N. CITY LIMITS	ST. CLOUD DRIVE
SYCAMORE AVENUE	KAINS AVENUE	MAGNOLIA AVENUE
COLUSA COURT	SNEATH LANE	CUL-DE-SAC
GLENBROOK LANE	ROSEWOOD DRIVE	CUL-DE-SAC
SUMMIT ROAD	SUSAN DRIVE	ELSTON DRIVE
PLUMWOOD PLACE	CHESTNUT AVENUE	END
LAKE DRIVE	END	AMADOR AVENUE
CHARLESTON AVENUE	TRENTON DRIVE	CRESTMOOR DRIVE
INYO COURT	SNEATH LANE	CUL-DE-SAC
RIDGEWAY AVENUE	CRESTMOOR DRIVE	SKYLINE BLVD
MORELAND DRIVE	CITY LIMITS	RIVIERSIDE DRIVE
DE SOTO WAY	BAYVIEW AVENUE	SANTA LUCIA AVENUE
KINGSTON AVENUE	TRENTON DRIVE	CRESTMOOR DRIVE
LINDEN AVENUE	KAINS AVENUE	ELM AVENUE
RIVIERA COURT	END	OAKMONT DRIVE
KENT COURT	CRESTMOOR DRIVE	CUL-DE-SAC
ELDORADO COURT	CRESTMOOR DRIVE	CUL-DE-SAC
SCOTT STREET	SAN MATEO AVE	HERMAN STREET
FLEETWOOD DRIVE	ROLLINGWOOD DRIVE	BERKSHIRE DRIVE
GREENWOOD WAY	ROLLINGWOOD DRIVE	COTTONWOOD DRIVE
PEACHWOOD COURT	CHESTNUT AVENUE	CUL-DE-SAC
EXETER DRIVE	SUNSET DRIVE	YSABEL DRIVE
YSABEL DRIVE	HIGHLAND DRIVE	END
SNEATH LANE	SKYLINE BLVD	MONTEREY DRIVE



CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan Grogan, City Manager

**PREPARED BY:** Darcy Smith, Assistant City Manager

**SUBJECT**: Fiscal Year 2021-2022 Quarter 1 Building Division Customer Service

Survey Results

**BACKGROUND**: On October 27, 2020, the City Council approved a resolution appropriating funds for consultancy and staff augmentation services to provide organizational support for and analysis of the Community and Economic Development Department. An agreement for consultant services was executed in November 2020 with Municipal Resource Group, LLC. This work included an assessment of a review of the department organizational structure, staffing levels, and development of an implementation action plan for enhancements to customer service. At the April 29, 2021, City Council meeting, the Community and Economic Development Department Organizational Review Report was reviewed. The Report included a total of 23 recommendations, including an annual customer satisfaction survey of building permit applicants.

Staff added a customer survey for the Building Division to the City's website on July 16, 2022, to gather data on the permitting and inspection process. The survey results enable the City to acquire reliable data of community's opinions in order to make strategic decisions on improvements. On July 26, 2022, staff presented development related staffing and service contract update to City Council. During the meeting, staff reviewed the survey webpage and obtained feedback from City Council to modify the survey. City Council requested a follow-up staff report and survey results on a quarterly basis. This report presents the Fiscal Year 2021-2022 Quarter 1 Building Division customer service survey results.

**DISCUSSION**: As of October 17, 2022, 16 individuals have participated in the Building Division customer service survey. The survey includes identifying questions as well as ratings on the building permit experience. Per the City Council's feedback, staff added optional fields for respondents to provide building permit numbers and contact information for the Building Division to contact the participant if needed to follow up.

## Identification

From the 16 responses, 43.75% of the respondents identified as Contractors and 56.25% of the respondents identified as Owner of the building or project. Approximately 94% of the respondents worked with the Building Division on residential projects.

## **Customer Feedback**

When asked to rate the customer service received from the Building Division, 75% respondents rated the process as Excellent. When asked if the building permit approval process was described at the beginning of the process, 73% of the respondents answered Yes. 87.50% of the respondents also indicated that the building inspector acted in a professional manner. Overall, the 16 participants rated their experience with the building division an average of 4.3 out of 5 stars.

Staff reviewed the feedback and suggestions left by participants for City to improve the building permit or building inspection process. Some of the feedback included:

- 1. Provide touchless inspection reports via tablets.
- 2. Online scheduling option for building inspection.
- 3. Provide smaller time-window for scheduled inspection.

## Conclusion

The City is working to upgrade the building permit software, with a launch anticipated in early 2023. The City will examine improvements to inspection reports and timing and online scheduling as part of this upgrade.

**FISCAL IMPACT**: There is no fiscal impact for receiving this report.

**ENVIRONMENTAL IMPACT**: The City Council's receipt of this report is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

**RECOMMENDATION:** It is recommended that the City Council receive and file the report.

#### **ALTERNATIVES:**

1. Receive the survey report from the Community and Economic Development Department on the building related services provided to the City and provide input and direction to staff; or 2. Provide alternative direction to staff.

#### **ATTACHMENTS:**

1. Building Division Customer Service Survey Results

# **Building Division Customer Service Survey**

Q1. In general terms, please describe the kind of building permit you received

Answer Choices	Response   Responses		
Commercial/Industrial	6.25%	1	
Residential	93.75%	15	
Institutional	0.00%	0	
Other	0.00%	0	
	Answered	16	
	Skipped	0	

Q2. Are you the owner of the building/project or a contractor?

Answer Choices	Response   Responses		
Owner	56.25% 9		
Contractor	43.75%		
Other	0.00%	0	
	Answered	16	
	Skipped	0	

Q3. In general terms, how would you rate the customer service you received from the Building division during your recent experience?

Answer Choices	Response   Responses		
Excellent	75.00% 12		
Good	6.25%	1	
Satisfactory	0.00%	0	
Poor	18.75%	3	
	Answered	16	
	Skipped	0	

Q4. Was the building permit approval process described to you by City staff at the beginning of the process?

Answer Choices	Response   Res	Response   Responses		
Yes	73.33%	11		
No	26.67%	4		
	Answered	15		
	Skipped	1		

Q5. Did the building inspector act in a professional manner?

Answer Choices	Response   Responses			
Yes	87.50%	14		
No	6.25%	1		

I did not work with a building

 inspector
 6.25%
 1

 Answered
 16

 Skipped
 0

Q6. Overall, how would you rate your experience with the building division? (1-5)

							Weighted
Answer Choices	1	2	3	4	5	Total	Average
Star	2	1	0	0	13	16	4.31



CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Jennifer Dianos, Assistant to the City Manager

**SUBJECT**: Approve City of San Bruno Response Letter to the San Mateo County

Civil Grand Jury Report "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know"

**BACKGROUND**: On August 9, 2022, the San Mateo County Civil Grand Jury released a report entitled "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know." The purpose of the report is to determine how cities in San Mateo County meet the requirements of the California Public Records Act (CPRA). Within the report, the Grand Jury developed five total findings and five total recommendations. The City of San Bruno is required to respond to findings numbered three and five, and recommendations numbered two, three, and four.

The City of San Bruno's responses to its allocated findings and recommendations are to be submitted to the Grand Jury no later than ninety days following the issuance of the report, which is no later than November 9, 2022.

**DISCUSSION**: The Grand Jury report includes two findings and three recommendations allocated to the City of San Bruno. The City of San Bruno is required to respond to each allocated finding and recommendation. The findings include observations related to the public's online access to records, including webpage navigation and ease of use. The recommendations include options for City staff to better facilitate record management practices and responses to CPRA requests.

Staff has reviewed the findings and recommendations and has prepared a response letter for City Council approval, attached to this report. In summary, staff has a basis to both disagree and partially disagree with the findings listed within the report, as provided within the response letter. However, Staff agrees with all report recommendations, one of which has already been implemented.

**FISCAL IMPACT**: There is no new fiscal impact associated with preparing this response to the Grand Jury Report. Prospective costs associated with record management practices or the purchase of commercially available public records request software will be included during the regular annual budgeting process.

**ENVIRONMENTAL IMPACT**: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

**RECOMMENDATION:** Approve City of San Bruno Response Letter to the San Mateo County Civil Grand Jury Report "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know."

**ALTERNATIVES:** The City of San Bruno is required to respond to the Grand Jury Report by November 9, 2022.

## **ATTACHMENTS:**

- 1. Response of the City of San Bruno to the San Mateo County Civil Grand Jury Report
- 2. San Mateo County Civil Grand Jury Report





Rico E. Medina *Mayor* 

OFFICE OF THE MAYOR

October 12, 2022

Honorable Amarra A. Lee Judge of the Superior Court c/o Jenarda Dubois Hall of Justice 400 County Center; 2nd Floor Redwood City, CA 94063-1655

Subject: Response of the City of San Bruno to the San Mateo County Civil Grand Jury Report "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know"

Dear Judge Lee,

Thank you for the opportunity to respond to the Grand Jury report entitled "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know." The City of San Bruno's response to its allocated findings and recommendations are listed below.

## **Responses to Allocated Grand Jury Findings:**

F3. Information about how to access public records requires multiple click to find on the City's website, which hinders the public's access to public records.

#### Response:

Partially Disagree. Information to access public records can be accessed with one click from the City's website. However, there are multiple ways to access such information, some of which can take multiple clicks.

F5. The City has no PRA request form online, making public access to public records less efficient.

## Response:

Disagree. The City's official website has the following PRA request form with clear access links allowing the public to efficiently submit a request: <a href="https://www.sanbruno.ca.gov/214/Public-Records-Request">https://www.sanbruno.ca.gov/214/Public-Records-Request</a>.

Response to Grand Jury - "A Delicate Balance between Knowledge and Power: Government T	ransparency and the
Public's Right to Know"	

Page 2 of 2

# **Responses to Allocated Grand Jury Recommendations:**

The 2021-2022 San Mateo County Civil Grand Jury recommends that the City of San Bruno do the following:

R2. The City Council should direct City staff to consider performing a cost/benefit analysis and report back by September 1, 2023, on the purchase of commercially available public records request software.

# Response:

Agree. City Council will direct City staff to consider performing a cost/benefit analysis and to report back to Council by September 1, 2023 regarding the purchase of commercially available public records request software.

R3. By June 30, 2023, the City Council should consider directing City staff to place information about how to access public records on the home page of the City's official website.

## Response:

Agree. At the time of this response, staff has added to the homepage of its official website a single link to the City's Public Records Act webpage.

R4. By June 30, 2023, the City Council should direct City staff to review and consider adopting a records management practice analogous to the City of San Mateo's "Records Cleanup Day."

## Response:

Agree. City Council will direct staff to adopt a formal practice that prompts staff to manage records in accordance with the City's existing record retention policy.

This response was approved by the San Bruno City Council at a public meeting prior to it being submitted to the court.

Sincerely,

Rico E. Medina Mayor



# Superior Court of California, County of San Mateo Hall of Justice and Records 400 County Center Redwood City, CA 94063-1655

(650) 261-5066 www.sanmateocourt.org

August 9, 2022

CLERK & JURY COMMISSIONER

City Council City of San Bruno 567 El Camino Real San Bruno, CA 94066

Re: Grand Jury Report "A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know"

#### Dear Councilmembers:

The 2021-2022 San Mateo County Civil Grand Jury filed the above-titled report on August 9, 2022, which contains findings and recommendations pertaining to your agency. Your agency must respond, within 90 days, to the Hon. Amarra A. Lee. Your agency's response is due no later than November 9, 2022.

There are several requirements for the content of your response. The response should indicate that it was approved by your governing body at a public meeting. In addition, please be aware that your agency is expected to adhere to the wording, as instructed below, when responding to the findings and recommendations of the Grand Jury report.

For each Grand Jury finding, your agency must indicate one of the following:

- 1. The respondent agrees with the finding; or
- 2. The respondent disagrees wholly or partially with the finding, specifying the portion of the finding that is disputed and including an explanation of the reasons therefor.

For each Grand Jury recommendation, your agency must indicate one of the following actions:

- 1. The recommendation has been implemented, with a summary of the implemented action:
- 2. The recommendation has not yet been implemented, but will be implemented in the future, with an estimated date for implementation;
- 3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and an estimated date (no later than six months from the publication date of the report) for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable; or
- 4. The **recommendation will not be implemented** because it is not warranted or reasonable, with an explanation therefor.

Kindly submit your responses in ALL the following formats.

- 1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office:
  - Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address, and mail to:

Hon. Amarra A. Lee
Judge of the Superior Court
c/o Jenarda Dubois
Civil Grand Jury Coordinator
Hall of Justice
400 County Center; 2<sup>nd</sup> Floor
Redwood City, CA 94063-1655.

- 2. Responses to be placed at the Grand Jury website:
  - Scan response and send by e-mail to: <u>grandjury@sanmateocourt.org</u>. (Insert agency name at the top of your response if it is not indicated.)
- 3. Responses to be placed with the clerk of your agency:
  - File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

The 2021-22 Grand Jury foreperson is available to clarify the recommendations of the Grand Jury report until August 15, 2022. To reach the foreperson, please contact Jenarda Dubois, Civil Grand Jury Coordinator, at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact David Silberman, Chief Deputy County Counsel, at (650) 363-4749.

Very truly yours,

Neal Taniguchi

Court Executive Officer

S. Languelie

Enclosure

cc: Hon. Amarra A. Lee David Silberman



# A Delicate Balance between Knowledge and Power: Government Transparency and the Public's Right to Know

Release Date: August 9, 2022

## **ISSUE**

The California Public Records Act requires that inspection or disclosure of governmental records be available to the public upon request. How do the cities in San Mateo County meet the requirements of this Act?

#### **SUMMARY**

The California Public Records Act (PRA) is an essential tool for the public to find out what their government agencies are doing. It's one of the freedom of information laws enacted in every state in the Union to ensure that the public can witness the actions of their governments. The PRA's purpose is to promote government transparency in California.

Fifteen years ago, the 2006-2007 San Mateo County Civil Grand Jury's report, "Electronic Communication Among City Officials: A Valuable Tool in Need of Careful Guidance," addressed the rise in local governments' use of electronic forms of communication between elected and appointed officials. As it observed, these valuable and efficient tools can quickly disseminate information, and they can constitute public documents subject to public disclosure. Reviewing that Grand Jury's report alerted the 2021-2022 San Mateo County Civil Grand Jury to the potential that cities may be facing increased complexity and potential burdens in the processing of requests for public records.

The Grand Jury sought to understand how San Mateo County's 20 cities respond to PRA requests, including:

- Cities' policies and procedures for handling requests;
- The types of records requests they receive;
- The training of key employees, elected officials, and appointed officials about PRA-related matters; and
- How legal changes may impact cities with regard to fulfilling PRA requests.

While the PRA does not require cities to adopt a formal policy, the Grand Jury sought to identify the cities that have written policy or procedure documents and the methods cities use to process the public's requests. It also wanted to learn how key staff keep up to date with changes in PRA law. Failing to comply with these laws can subject a city to litigation and, more importantly, lead to erosion of the public's trust.

<sup>&</sup>lt;sup>1</sup> 2006-2007 San Mateo County Civil Grand Jury, Electronic Communication Among City Officials: A Valuable Tool in Need of Careful Guidance

https://sanmateocourt.org/documents/grand\_jury/2006/ElectronicCommunicationfinal.pdf, retrieved June 9, 2022.

The Grand Jury recommends that city councils of the subject cities should:

- 1. Consider directing staff to create a written PRA procedures document for circulation to all relevant staff.
- 2. Consider directing staff to perform a cost/benefit analysis regarding the purchase of commercially available public records request software.
- 3. Consider directing staff to place information about how to access public records on the home page of their official website.
- 4. Consider directing staff to create a submittable online PRA request form.
- 5. Consider directing staff to review and consider adopting a records management practice analogous to the City of San Mateo's "Records Cleanup Day."

#### BACKGROUND

Two centuries ago, James Madison wrote these words:

"A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives." 2

He further asserted, "Knowledge [is] the only Guardian of true liberty."3

John Moss, a California member of the U.S. House of Representatives, used Madison's quote to generate support for a bill he was introducing in Congress. In 1967, after a 12-year struggle, he was finally successful in passing the Federal Freedom of Information Act (FOIA). It served as the model for California's similar Public Records Act enacted one year later.

The California Public Records Act was signed into law by Governor Ronald Reagan in 1968 and acknowledges one simple concept – that secrecy is contrary to a democratic system of "government of the people, by the people, and for the people". Specifically, the PRA declares that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state".<sup>4</sup>

<sup>&</sup>lt;sup>2</sup> Letter from James Madison to W.T. Barry (August 4, 1822), in The Writings of James Madison (Gaillard Hunt ed.).

<sup>&</sup>lt;sup>3</sup> Letter from James Madison to George Thomson (June 30, 1825) (on file with The James Madison Papers at The Library of Congress).

<sup>&</sup>lt;sup>4</sup> California Government Code, Section 6250 (2021).

Every state has some form of freedom of information law that governs public access to state and local government documents.<sup>5</sup> In addition, every state has some form of a "Sunshine Law" or "Open Meetings" law that requires public access to meetings of public legislative bodies. California's Ralph M. Brown Act is such a Sunshine Law.<sup>6</sup> Passed in 1953, it guarantees the public's right to attend and participate in meetings of local legislative bodies. The PRA and the Brown Act are California's primary laws intended to promote government transparency.

#### What are Public Records?

The PRA defines the term "public records" as any "writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by a state or local agency regardless of physical form or characteristics." Thus, a "writing" is not simply a handwritten or printed document; writings include an ever-broadening range of communications including audio and video recordings, emails, photos, drawings, computer data, and more.

The agencies that hold these public records, and are subject to the PRA, include every county, city, town, school district, special district, police and fire department, commission, and board in California. Certain private entities that carry out public functions using funding from a local agency may also be subject to the PRA. The PRA applies to nearly every public agency one can imagine except for the Legislature and the courts. 10

A public record refers to information that has been recorded or maintained by a public agency. Typical examples of records that the public might request include:

- Property records,
- Building permits,
- Business registrations
- Employee compensation information
- Financial documents
- Code enforcement records
- Public works documents, and
- Police records.

Merely addressing a question to a local agency official or employee is not sufficient to constitute a public records request under the PRA. "What time do the lights go off at the neighborhood park?" Or "Why are there so many potholes on my street?" are not public records requests. However, a request to see the contract for the vendor who installed the lights or paved the street would be a public records request.

<sup>&</sup>lt;sup>5</sup> FOIA Advocates, State Public Records Laws. http://www.foiadvocates.com/records.html Retrieved May 11, 2022

<sup>&</sup>lt;sup>6</sup> CA Govt Code § 54950 et seq.

<sup>&</sup>lt;sup>7</sup> CA Govt Code § 6252(e).

<sup>&</sup>lt;sup>8</sup> CA Govt Code § 6252(g).

<sup>&</sup>lt;sup>9</sup> CA Govt Code § 6252(f). Excluded from the definition of state agency are those agencies provided for in article IV (except section 20(k)) and article VI of the Cal. Constitution.

<sup>&</sup>lt;sup>10</sup> The Legislature has its own sunshine law, Gov. Code, § 1070. Most court records are disclosable under a number of legal decisions and the First Amendment of the U.S. Constitution.

#### The Form of PRA Request

The PRA ensures that all persons must receive equal access to public records. "Persons" can be corporations, partnerships, homeowners' associations, and the media. Simply put, every person has the right to inspect public records, and no one type of person has a greater right of access to public records than any other person.

Because the intent of the law is to enable easy access to public records, it is expansive in the available ways requests may be made. The request can be made in writing or orally, by physical or electronic means, remotely or in person. Persons making a PRA request are not required to explain the reason for the request.<sup>13</sup>

Public records are to be open for inspection during office hours at the local agency. To preserve the orderly function of their offices, agencies may establish reasonable policies for the inspection and copying of records. If the request asks for copies of documents, the agency is required to respond within ten days to determine whether they have disclosable records in their possession and to notify the person making the request of that determination. The agency must then make the records "promptly" available.<sup>14</sup>

An agency may extend the normal ten-day requirement for responding whether it has any disclosable documents for up to 14 additional days under certain circumstances. <sup>15</sup> For example, if the agency needs to search through and collect a voluminous number of records or to consult with another agency with an interest in the requested records, such an extension is available.

The agency is required to assist the requester who is having difficulty making a focused and effective PRA request. <sup>16</sup> And while the request may be burdensome, that burden alone is not sufficient to justify noncompliance. However, the agency is also not required to perform a "needle in a haystack" search for records. <sup>17</sup> Additionally, a PRA request only applies to records that exist at the time of the request, not for records to be created in the future.

## Widespread Use of Electronic Communications

The public's business increasingly relies on electronic communications. Email, social media postings, video and audio recordings, and the use of personal devices have created enormous volumes of public records for cities. In a case with broad consequences related to PRA requests, City of San Jose v. Superior Court of Santa Clara County (2017), the California Supreme Court

<sup>11</sup> CA Govt Code § 6252(c); Connell v. Superior Court (Intersource, Inc.) (1997) 56 Cal.App.4th 601.

<sup>12</sup> CA Govt Code § 6252.5; Los Angeles Unified School Dist. v. Superior Court (2007) 151 Cal.App.4th 759; Dixon v. Superior Court (2009) 170 Cal.App.4th 1271, 1279.

<sup>13</sup> CA Govt Code § 6250; California. Constitution, Article. I, Section 3.

<sup>14</sup> CA Govt Code § 6253(c).

<sup>15</sup> CA Govt Code § 6253(c)(1-4).

<sup>&</sup>lt;sup>16</sup> CA Govt Code § 6253.1.

<sup>17</sup> Cal. First Amend Coalition v. Superior Court (1998) 67 Cal. App. 4th 159, 166.

ruled that communications carried out using a personal account or device were disclosable if the communication was related to the conduct of public business.<sup>18</sup>

For example, such a PRA request might be for all communications between city officials and a vendor that was granted a city-awarded contract. The search for responsive records could include reviewing all the emails, voice mails, and texts between the parties for relevant material, including on officials' personal devices. This can be problematic since this communication, especially if voluminous, could require attorneys to determine what might be non-disclosable for reasons of privacy or privilege. In Getz v County of El Dorado (2021), a California appeals court ruled that El Dorado County's unsubstantiated claim that a PRA request was overly broad and burdensome was not a valid reason for denial of records. The court explained that establishing that a request is overly burdensome requires more than the vague prospect of having to review lots of records. The County was ultimately compelled to produce over 40,000 email records. <sup>19</sup>

#### Law Enforcement Records

In recent years the most publicized form of an electronic record has been police body-cam footage. Landmark legislation has broadened PRA access to law enforcement records, including a limited subset of these audio and video recordings. On January 1, 2019, SB 1421 became law. Called the Peace Officers: Release of Records bill, it requires law enforcement agencies to make records (including body-cam footage) related to certain serious officer use of force incidents, sexual assault, and acts of dishonesty available under the PRA.<sup>20</sup> Police unions have filed multiple challenges to the law asserting concerns about officers' privacy, retroactivity of the law, and the cost of producing records.<sup>21</sup> These challenges have been consistently denied by courts.<sup>22</sup> And in January 2022, SB 16, became effective. This new law now requires additional police disciplinary records, involving allegations of discrimination, unlawful arrest, and cover-ups of excessive force by fellow officers, to be made available under the PRA.<sup>23</sup>

<sup>&</sup>lt;sup>18</sup> Latham & Watkins, Client Alert Commentary, https://www.lw.com/thoughtLeadership/california-supreme-court-government-communications-on-private-accounts-are-public, retrieved May 11, 2022.

<sup>&</sup>lt;sup>19</sup> Getz v. The Superior Court, 72 Cal.App.5th 637, 287 Cal. Rptr. 3d 722 (Cal. Ct. App. 2021) https://law.justia.com/cases/california/court-of-appeal/2021/c091337.html, retrieved June 1, 2022. <sup>20</sup> CA Penal Code § 832.7 and § 832.8.

<sup>&</sup>lt;sup>21</sup> Voice of San Diego, A Brief History of Police Challenges. https://voiceofsandiego.org/2019/06/10/brief-history-of-police-challenges-and-losses-sb-1421/, retrieved March 18, 2022.

<sup>&</sup>lt;sup>22</sup> JD Supra, Another SB1421 Decision Against Law Enforcement. https://www.jdsupra.com/legalnews/another-sb-1421-decision-against-law-45114/, retrieved March 18, 2022.

<sup>&</sup>lt;sup>23</sup> BBK Attorneys at Law, SB 16 Compliance Expanded Public Access. https://www.bbklaw.com/News-Events/Insights/2021/Legal-Alerts/12/SB-16-Compliance-Expanded-Public-Access-to-Law-Enf, retrieved March 18, 2022.

## **Methods of Handling Requests**

The PRA does not mandate any specific method for agency handling of records requests. Some local agencies simply monitor the process manually using an internally created document. Many other agencies now use commercially available software that links to information on their public websites. Often marketed to city clerks through professional organizations, such as the City Clerks Association of California, these software applications offer solutions to manage large portions of the PRA request process.

#### These applications can:

- Manage intake of requests through a public portal;
- Provide an automated response of receipt to the person making a request;
- Alert agency staff to deadlines;
- Promote coordination across departments;
- Gather records and track their production to person making a request;
- Provide tools to redact information; and
- Display and store responsive records.

The software enables anyone making a PRA request to see the status of their request through a portal. It also enables cities to make both the request and the records responsive to the request visible to the public.

#### **Fees**

An agency may charge a fee for costs of complying with the PRA, but only for the direct costs of making copies of responsive records – typically a nominal fee per page of paper copies. Since today most records are produced and delivered to the requester electronically, many responsive records are cost-free to the requesting party.

In National Lawyers Guild v. City of Hayward (2019), the California Supreme Court held that an effort by the city to charge \$3,000 for labor related to redacting requested bodycam footage was not permissible as a "data extraction" cost.<sup>24</sup> With this decision, the Court reaffirmed that local agencies may not charge for ancillary costs such as the labor required to retrieve documents or the inspection and handling of files.<sup>25</sup>

# Voter-approved Propositions Affecting the PRA

In 2004, voters overwhelmingly passed Proposition 59, the "Public Records, Open Meetings Legislative Constitutional Amendment." It essentially adds a "sunshine" amendment to the Declaration of Rights section of the California Constitution (similar to the U.S. Constitution's

<sup>&</sup>lt;sup>24</sup> Reporters Committee, National Lawyers Guild v City of Hayward. https://www.rcfp.org/briefs-comments/national-lawyers-guild-v-hayward-california-supreme-court, retrieved June 14, 2022.

<sup>&</sup>lt;sup>25</sup> BBK Attorneys at Law, California Public Records Act Update. https://www.bbklaw.com/news-events/insights/2021/legal-alerts/01/california-public-records-act-update, retrieved March 16, 2022.

Bill of Rights) stating, "The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."<sup>26</sup>

Proposition 42, the "Public Records. Open Meetings. State Reimbursement to Local Agencies. Legislative Constitutional Amendment" was approved by voters in 2014. It was the result of a dispute over a controversial bill that would stop local governments from being required to follow key provisions of the PRA. The State legislature had considered the bill to be a budget move, since at that time it was required to reimburse local governments for complying with some aspects of records requests. The backlash over the signing of this bill caused the legislature to rescind it and put the matter before the voters as a constitutional amendment. When it passed, by a 62% yes vote, it required local governments to comply with the PRA without being reimbursed by the State for the cost of public access to records."<sup>27</sup> The full financial burden of compliance with the PRA now falls entirely on local governments.

#### Exemptions

While the PRA states that "the people" have the right to know what their government is doing, clearly circumstances arise where a balance must be achieved between the public interest and individual privacy rights. The PRA contains at least 76 express exemptions, for matters as diverse as library circulation records, copyright protected building plans, and medical and personnel records.<sup>28</sup> In some instances a public document may not be considered exempt but may contain private information such as social security numbers and home addresses. Those specific portions will be redacted before release to the public.

Government Code section 6254 specifies a large number of exemptions under the PRA. Several of the more notable exemptions are listed below:

#### Records Not in Existence

The agency is under no obligation to create records where none exist; agencies are not required to provide records that may be produced in the future relevant to the original request.

#### Disclosure of records exempted by Federal or other State law

Records shielded from disclosure by existing state or federal law, such as individual health records, are not accessible using the PRA.

#### Public Interest Test and Deliberative Process Privilege

Agencies may withhold certain records if they can demonstrate that the public interest served by not disclosing the record clearly outweighs the public interest served by its disclosure.

<sup>&</sup>lt;sup>26</sup> Cal. Const., Art I, § 3, subd. (b)(1)

<sup>&</sup>lt;sup>27</sup> Cal. Const., Art. I, § 3, subd. (b)(7)

<sup>28</sup> CA Govt Code § 6254

#### • Preliminary Drafts

Preliminary drafts, notes, or memos not normally preserved in the course of business are exempt.

#### Attorney Client Communications

Confidential communications between lawyers and clients, and attorney work product, are exempt from disclosure.

#### Pending Litigation

Records pertaining to pending litigation or claims to which a public agency is a party until the litigation or claim has been finally adjudicated or otherwise settled.

#### Personal Information

This exemption is intended to protect the confidentiality of personnel, medical or other similar files which would constitute an unwarranted invasion of personal privacy.

#### • Trade Secrets

Businesses engaged in public contracts are not required to disclose their trade secrets in response to a PRA request.

## Recourse When Responsive Documents Are Not Produced

If a local agency has unlawfully refused to disclose a public record, a person may ask a judge to enforce their rights under the PRA. This enforcement is primarily through a special, expedited civil judicial process.<sup>29</sup> The PRA provides specific relief in the form of court costs and attorneys' fees when an agency unlawfully denies access or copies of public records.

Conversely, a local agency cannot bring an action for relief to determine its obligation to disclose records.<sup>30</sup> That would require the person requesting documents to defend a civil action and discourage them from requesting records in the first place. It would frustrate the central purpose of the act and the constitutional amendments specifically designed to provide access to information.

The PRA is an indispensable tool for the responsible exercise of democracy in California. Government transparency, accountability and effectiveness depend on how our local agencies handle the information they create and are entrusted with maintaining. A changing legal framework, the ubiquity of electronic records, new communications technologies and the treatment of their related records, and the public's demonstrated desire for "open government" present significant challenges to the efficient handling of PRA requests for the cities in our county.

<sup>&</sup>lt;sup>29</sup> CA Govt Code § 6258 and 6259.

<sup>30</sup> Filarsky v. Superior Court (2002) 28 Cal.4th 419, 426.

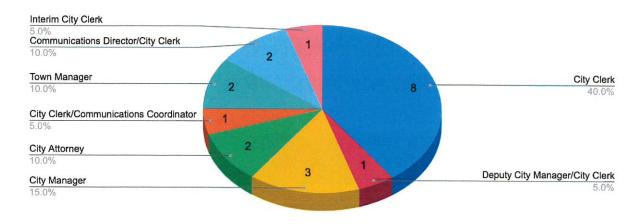
#### DISCUSSION

As stated above, the PRA applies to all of the public agencies in San Mateo County. To narrow the focus of our investigation, the Grand Jury opted to concentrate on the 20 cities, including their police and other departments, and the committees and commissions formed by those cities.

#### **Survey Respondents**

The Grand Jury began by sending a survey to the 20 city managers in the County (a copy of the survey appears in Appendix A). It asked six questions related to the processing of public records requests, policies and procedures used, and the PRA training of staff and officials. In most cases (13 of 20) the responses came from city clerks who are responsible for maintaining a city's public records. Some of the clerks perform multiple roles for their cities, reflected in some cases (15%) by an additional job title. The following graphic illustrates the various job titles of survey respondents.

## Count of Survey Respondent's Titles



In two cities, the city clerk position is determined by public election; in the remainder of the cities, clerks are appointed by the city manager. Our investigation found that the city clerk is typically the official primarily responsible for the acknowledging receipt of a PRA request, tracking it through the city's internal processes, and delivering correspondence and responsive records to the person submitting the request.<sup>31</sup>

The Grand Jury conducted follow-up interviews with representatives of all 20 cities, confirming their survey responses and gathering additional information. We asked the cities to provide written documentation of their PRA policies and procedures, if any exist. Fourteen cities replied that they had existing policies or procedures and supplied them to the Grand Jury. We also conducted in-depth interviews with five selected cities.<sup>32</sup> These cities were chosen to give us a cross section sample based on city population, method of tracking, and volume of requests. The

<sup>&</sup>lt;sup>31</sup> In one city, the city attorney assumed most of this role, but even there the city clerk was involved in the process.

<sup>32</sup> Belmont, Daly City, San Bruno, San Mateo, and South San Francisco

Grand Jury notes that respondents from all 20 cities were entirely cooperative and knowledgeable about their city's PRA request procedures.

#### **Documentation of PRA Policies and Procedures**

The PRA does not require local agencies to create policies or documentation of how they receive, route, track, and fulfill records requests. When the Grand Jury asked respondents and interviewees to provide documentation describing how they handled PRA requests, we learned that six cities had no such documentation.<sup>33</sup> In some cases, the documentation received from the remaining 14 cities was simply a description of the PRA's requirements (perhaps supplied to staff for training for information). The Grand Jury also received documents such as the city's internal procedures, as well as some that were formal policies signed and dated by the city manager. In interviews, all respondents could describe their processes.

The documentation received and reviewed by the Grand Jury varied widely. Atherton's document is a colorful presentation defining the PRA and describing what is and isn't a public record.

# Public Records Requests

Town of Atherton Records Coordinators

What is the California Public Records Act?

The Public Records Act assures the public's right to access information concerning the People's Business. Adopted in 1968, the CPRA's legislative findings declare that access to information about the conduct of the public's business is a fundamental and necessary right of every person in the state. The findings also assert that the Legislature is mindful of the right of individual's privacy, and for the past 40+ years, courts have balanced those competing interests within the CPRA.

<sup>33</sup> Grand Jury survey (December 2021) Belmont, Daly City, Half Moon Bay, Hillsborough, Menlo Park, and Woodside.

It generally outlines city staff's role in responding to a request. In contrast, Redwood City's document is an administrative policy detailing the purpose and scope of how they respond to PRA requests. It notes specific types of records such as political reform act records and requests for electronic communications. It also specifies that the document will be reviewed every two years. Copies of the PRA documentation provided by Atherton and Redwood City can be found in Appendix B.

The Grand Jury noted that some cities relied on an individual staff member (city clerk or city attorney) to respond to records requests. In the event of illness, vacation, resignation or other interruption of service, no documentation exists to guide replacement personnel.

Written PRA policies or procedures provided to the Grand Jury typically covered subjects such as:

- The purpose of the PRA;
- Resources for PRA training;
- The steps in processing a request; and
- Specific staff responsibilities.

#### **Website Portals**

The Grand Jury found that while cities do receive PRA requests in various ways - submitted inperson at city offices, by telephone, and postal mail - they are most frequently submitted via email. We found that 16 of the 20 city websites included a portal containing a submittable form for the filing of a PRA request and four cities had no such form.<sup>34</sup>

Every city website somewhere provides instructions on how to make a PRA request. Some have links to those instructions on the home page, but most require steps to navigate to it. In some cases, the Grand Jury found broken links indicating inconsistencies in the level of maintenance of the PRA related pages. Some city websites simply instruct the public to send a public records request to the city clerk and provide contact information including an email address, a phone number, or a physical address at which to file.

<sup>&</sup>lt;sup>34</sup> Belmont, Brisbane, Hillsborough, and Portola Valley.

## Example of Easy and Accessible PRA-Information on a City Website

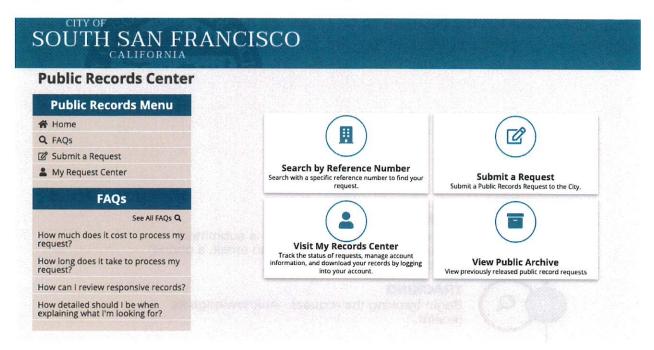
The website for the City of South San Francisco provides easily accessible information regarding PRA requests. The home page includes a "Public Records Request" link.



Clicking on the link brings up a page full of useful titles including how to make a request, the city's PRA policy, who can make a request, and tips to expedite requests.



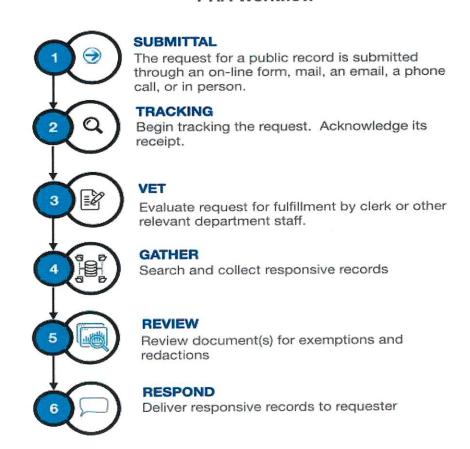
Clicking on "Public Records Request" takes the user to a third-party public records web application where they can search by request reference number, track the status of a previous request, view a public archive, and submit a new request.



#### Tracking a Public Records Request

Since the PRA mandates specific deadlines for public agencies to respond to a public records request, the ability to track submissions is vital in order to ensure legal compliance.<sup>35</sup> All cities informed the Grand Jury that they track PRA requests, utilizing a variety of methods to do so. Regardless of the specific method used by a city, the workflow is generally as follows.

#### PRA Workflow



<sup>35</sup> CA Govt Code § 6253(c).

Ten cities, which were generally smaller and field fewer requests, reported that they track PRA requests manually using an Excel spreadsheet or similar internal document.<sup>36</sup> These documents require manual data entry and maintenance by staff. For example, see San Bruno's spreadsheet at Appendix C. While these cities indicated general satisfaction with their current methods of tracking, one city was actively seeking proposals from commercial software vendors and others were considering doing so. Appendix D shows such a vendor's proposal.

The ten other cities, including most of the larger ones, use third-party software that automates the handling of PRA requests.<sup>37</sup> These cities use one of two software applications.<sup>38</sup> In interviews, staff generally expressed satisfaction with both products, citing their effectiveness and efficiency. Pricing of these applications will vary based on the configuration and storage options selected. One city indicated a desire to purchase software but cited the city's budget constraints. Another city noted that the cost was prohibitive for a city of their size and volume of requests.

#### Volume of Requests

Thirteen cities reported receiving more than 100 PRA requests in the past year. Two cities reported receiving fewer than 50 requests, while one city indicated that it received more than 1,600 requests for records. Another city noted a 500% increase from the previous year. All cities reported significant increases in the volume of requests received since the outset of the Covid pandemic.

#### **Subjects of Requested Records**

All 20 cities reported that the majority of the PRA requests they received were for routine records such as property-related documents, police records, public works documents, and business registrations. For example, in San Mateo, the City Clerk's office recorded 1,695 PRA requests in the fiscal year ended June 30, 2021. The largest percentage (46%) were directed to the Community Development Department and typically asked for property records of some kind, including planning applications, building permits, blueprints, inspections, and code violations. Requests for police records (35%) were the next most frequently requested type of record. The clerk's office noted that the police department directly receives substantially more requests than come to the clerk through their PRA request software.

## **Time-Consuming Requests**

The Grand Jury learned that a relatively small number of records requests are disproportionately time-consuming to fulfill. In particular, requests for communications records may fall into this category. The request may require a broad search of all relevant communications created and

<sup>&</sup>lt;sup>36</sup> Atherton, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Hillsborough, Portola Valley, San Bruno, and Woodside as of May 16, 2022.

<sup>&</sup>lt;sup>37</sup> Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Carlos, San Mateo, and South San Francisco as of May 16, 2022.

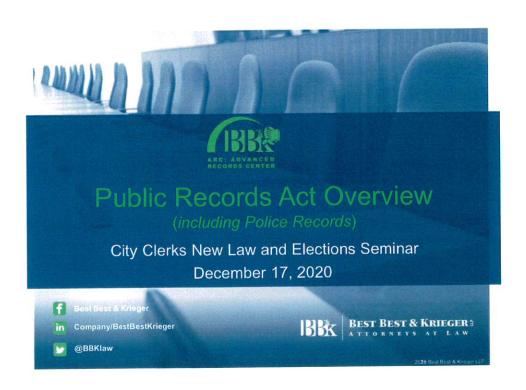
<sup>38</sup> GovQA, If You Have a Public Records Problem. https://www.govqa.com/solutions/public-records-software/Retrieved May 16, 2022, and NextRequest, The All-In-One Open Records Request Platform. https://www.nextrequest.com/, retrieved May 16, 2022.

stored on electronic devices, including employees' cell phones and laptops. Recently, Portola Valley received what was characterized as a "massive" PRA request for "all town communications regarding the housing element since July 1, 2021, including communications among elected officials, staff, consultants or members of the committee, like emails and text messages, including on personal devices." The request was the result of a potential change to the town's zoning laws to allow for more dense housing in one residential neighborhood.

Several cities reported to the Grand Jury that on rare occasions a disgruntled citizen or exemployee has intentionally crafted a detailed records request intending to be time-consuming and annoying for the city. One respondent reported that the search and review of electronics communications in response to one request took months to complete, due to the number of responsive records and the broad search of multiple devices.

#### **Training**

State law does not mandate training for those implementing its provisions. City clerks often attend training through annual City Clerks Association of California conferences and other professional associations.



<sup>&</sup>lt;sup>39</sup> Angela Swartz, "'Massive' public records request escalates battle over Portola Valley's housing element," *Almanac*, March 21, 2022.

https://www.almanacnews.com/news/2022/03/21/massive-public-records-request-escalates-battle-over-portola-valleys-housing-element, retrieved June 9, 2022.

Half of the cities interviewed by the Grand Jury mandate formal PRA training for their key employees. Others offer training but do not mandate it, while some cities have no formal arrangements for PRA training at all.<sup>40</sup> Training, if offered, is conducted by the city attorney. In our investigation, respondents agreed that formal training for key city employees would make the handling of records requests more efficient and consistent.

Twelve cities informed the Grand Jury that they provide PRA training for their appointed and elected officials. This training is also typically provided by the city attorney, sometimes with the assistance of the city clerk. Eight cities reported that they do not offer specific PRA training to such officials, but some noted that their training in Brown Act compliance includes PRA training content.<sup>41</sup>

While the PRA does not include criminal penalties for noncompliance with its provisions, civil actions, as described earlier, may be filed and cities can be liable for court costs and attorneys' fees.

#### **Increasing Efficiency in Records Request Processing**

Some cities have demonstrated how commonly requested records can be made available to the public without formal PRA requests.

Making public records available online is a convenient and efficient mechanism for both the requester and the municipality. Cities generally do this for many common records, such as meeting agendas for public meetings (which are legally required to be posted publicly). <sup>42</sup> At the time of this investigation, some cities, such as San Carlos, also posted many records online.

<sup>&</sup>lt;sup>40</sup> Burlingame, Portola Valley, and Woodside.

<sup>&</sup>lt;sup>41</sup>BBK, Attorneys at Law, Summary of the Major Provisions and Requirements of the Ralph M. Brown Act. https://www.bbklaw.com/bbk/media/library/pdf/major-provisions-and-requirements-of-the-brown-act.pdf, retrieved June 9, 2022.

<sup>42</sup> CA Govt Code § 54954.2.

Using the search term "public records" on the San Carlos city website brings up "Records Available Online for Your Easy Access," which connects to records such as budgets, building permits, and public works documents.

# Submit a Public Records Request

If you are unable to locate the records you want online, please submit a Public Records Request via our NextRequest portal:



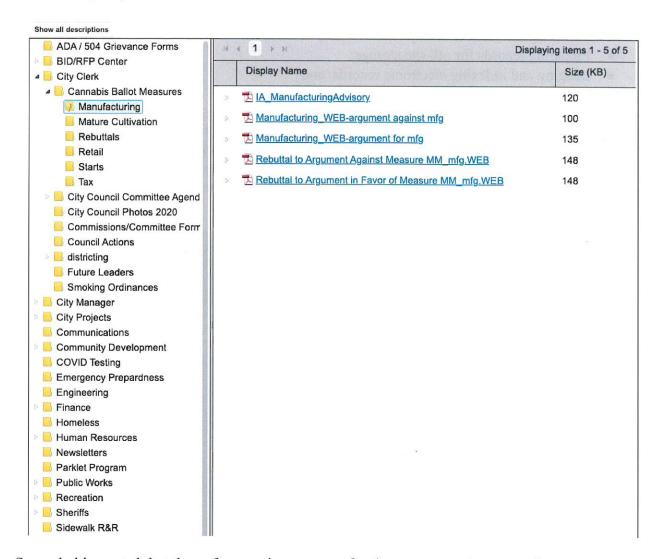
Our goal is to provide you with timely access to the City's public records. All requests for documents will be reviewed and responded to within ten (10) days, in compliance with the California Public Records Act. Fees are charged according to our fee schedule, however, there is no charge to review records in person at City Hall.

Master fee schedule

## Records Available Online for Your Easy Access

- Accounts payable cash disbursements journal
- Active business registrations
- Budgets
- Building Permits
- City Council and Commission agendas, minutes and videos
- City Municipal Code
- Citywide Reports
- Financial Reports and Documents
- Ordinances and Resolutions
- Various Public Works Documents, including documents pertaining to sewers, streets, traffic, etc.

The Half Moon Bay website offered a "Document Center" containing more than 2,000 city documents going back a decade.



Several cities noted that they often receive requests for the same records repeatedly. For example, this can occur when a sought-after property is offered for sale and brokers, architects, attorneys, and potential buyers are doing their due diligence. Cities using commercially provided software applications, or that post public records as do San Carlos and Half Moon Bay, can reduce the number of such duplicative PRA requests.

#### **Records Management**

Proper records management policies and practices facilitate effective compliance with the PRA. Having better control of these records makes their timely and appropriate production more accurate and efficient. All cities in the County reported having records retention schedules that determine what documents must be retained and for how long. For example, in South San Francisco, leases for city owned properties must be kept in hard copy for the current year plus two-years. Board and commission resolutions must be kept permanently (a copy of the records retention schedule for South San Francisco is at Appendix E).

The City of San Mateo reported a unique method for encouraging city staff in one element of the effective management of public records. There, the city clerk held a "Records Clean Up Day" (related materials are contained in Appendix F). During this event employees are tasked with:

- Reducing the number of duplicate records;
- Preparing records for off-site storage;
- · Imaging and indexing electronic records; and
- Identifying electronic records eligible for destruction.

The retention life cycle of various records determined how different categories of documents are handled. The program was designed to create an enjoyable environment around these tedious tasks by employing a food truck, encouraging casual dress, creating contests with prizes, and printing T-shirts commemorating the day. The program included an on-site shred truck, and the city attorney was available for consultation.



In an email to the Grand Jury, a city staffer wrote, "In addition to elevating the employee understanding that these public records are an asset of the city (just like the vac truck, fleet, and streets) ... we have a duty to manage and maintain them well; reinforce the policy and procedures we have adopted; and let's face it, maintaining records can become back burner in the flurry of day-to-day needs and requests. Setting aside time to honor the need, accomplish an objective and then celebrate it – keeps it more in the forefront of the mind and honors the importance of the public's records." <sup>43</sup>

<sup>&</sup>lt;sup>43</sup> Grand Jury correspondence April 26, 2022.

#### Law Enforcement Records

Some cities reported receiving significant numbers of requests for police records. All such requests were forwarded directly to city police departments or the County Sheriff's Office (for those cities contracting for police services).44 Law enforcement agencies typically employ a records manager tasked with responding to public records requests. In some cities the disposition of these requests was reported back to the city clerk for inclusion in their tracking systems; in others, the city clerk had no knowledge of the status of a police records request. The Grand Jury did not investigate how these requests for law enforcement records were handled in compliance with the PRA. It is of note that most law enforcement records are exempted from the Public Records Act pursuant to Government Code Section 6254(f).

#### **FINDINGS**

- F1. The city has no written documentation of its PRA policy and internal procedures, making it more likely that requests could be handled inconsistently.
- F2. The city uses a commercially available software application that includes a web portal enabling the public to easily request records and track their disposition.
- F3. Information about how to access public records requires multiple clicks to find on the city's website, which hinders the public's access to public records.
- F4. The City of San Mateo implements a Records Cleanup Day with the purpose of increasing employee understanding of the need to effectively maintain public records, thereby improving PRA request responsiveness.
- F5. The city has no PRA request form online, making public access to public records less efficient.

#### RECOMMENDATIONS

- R1. The city council should direct city staff to consider and report back by June 30, 2023, on the creation of a written PRA policy or procedures document for circulation to all relevant staff.
- R2. The city council should direct city staff to consider performing a cost/benefit analysis and report back by September 1, 2023, on the purchase of commercially available public records request software.
- R3. By June 30, 2023, the city council should consider directing city staff to place information about how to access public records on the home page of the city's official website.
- R4. By June 30, 2023, the city council should direct city staff to review and consider adopting a records management practice analogous to the City of San Mateo's "Records Cleanup Day."
- R5. By June 30, 2023, the city council should direct city staff to create, on the city clerk's page of its website, a submittable PRA request form.

<sup>44</sup> Contracting cities are Half Moon Bay, Millbrae, San Carlos, Woodside, and Portola Valley.

## REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the selected city and town councils as follows (x):

City	F1	F2	F3	F4	F5	R1	R2	R3	R4	R5
Atherton			х		х		х	х	х	
Belmont	x		х		х	х	х	Х	х	х
Brisbane			х		x		х	х	х	х
Burlingame							х		Х	
Colma							х		х	
Daly City	x	х				х			х	
East Palo Alto						, and a second	Х		х	
Foster City		Х							х	
Half Moon Bay	x	х				х		X	х	
Hillsborough	X		х		х	x	Х		х	х
Menlo Park	Х	х				X		Х	Х	
Millbrae		Х							х	
Pacifica		х							х	
Portola Valley			х		х		X	х	х	х
Redwood City		х						х	Х	
San Bruno			Х		х		х	Х	х	
San Carlos		х							х	
San Mateo		х		х						
South San Francisco		x							х	
Woodside	X				х	Х	х		х	

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

#### RESPONSE REQUIREMENTS

California Penal Code Section 933.05, provides (emphasis added):

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall report one of the following:
- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding; in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

#### METHODOLOGY

Through examination of surveys, interviews, the documentation provided by the cities, a demonstration of third-party software, and a site visit, the Grand Jury studied how cities respond to public records requests, and how they keep up with changes in the law.

#### Survey

- The Grand Jury developed an online survey consisting of six questions and a request for copies of their PRA policies and procedures.
- The survey was sent to all 20 city managers in the County and various respondents completed the survey.
- We then followed up with a brief phone interview to confirm the responses received from those completing the survey, and to request written policy and procedures documents and records retention policies.

#### **Documents**

The Grand Jury reviewed:

- Policy and procedure documents from all cities that indicated having them.
- Records retention policies from several cities.
- Proposals and contracts for third-party software received from various vendors
- Marketing material of third-party software vendors
- Research on best practices in records management

#### Site Tour

- GJ conducted a site visit to the San Bruno City Attorney's office.
- San Mateo conducted a virtual demonstration of their third-party software.

#### Interviews

The Grand Jury conducted further interviews with city attorneys, city clerks and city
managers based on those with written policies or procedures documents, training of key
employees and elected and appointed officials (advisory bodies), number of public
records requests received per year, and those with an elected city clerk.

#### Web Sites

• The official websites of the 20 cities in the County were reviewed to assess the ease in locating information relating to public records, the methods of submission of a public records request, as well as users' direct access to commonly requested public records.

#### **BIBLIOGRAPHY**

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#### LIST OF APPENDICES

Appendix A – The Grand Jury Survey Results

Appendix B - PRA Policies and Procedures: Atherton and Redwood City

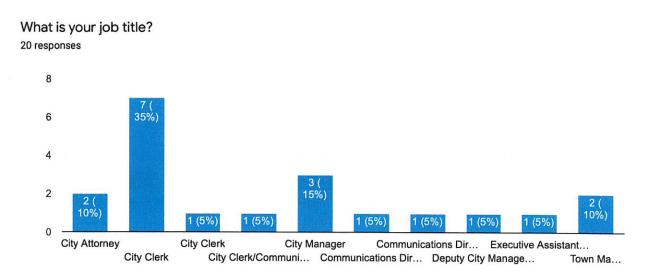
Appendix C - San Bruno PRA Request Log

Appendix D - GovQA Proposal for Services

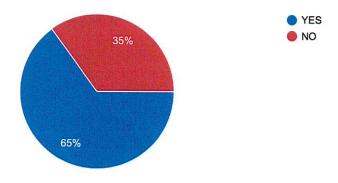
Appendix E - South San Francisco Retention Schedule

Appendix F - City of San Mateo's Clean-Up Day Staff Plan and Flyer

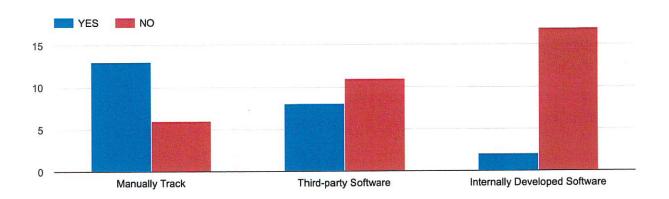
# APPENDIX A The Grand Jury Survey Results



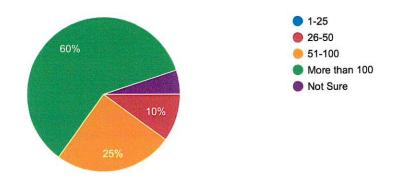
2. Have you established internal written procedures, or policies, for handling Public Records Act requests? If YES, please provide documentation to: rweiss@smcivilgrandjury.org. 20 responses



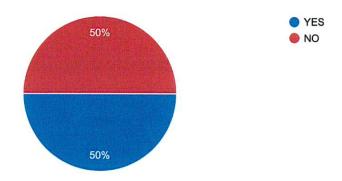
3. Please indicate if you use any of the following to track the status of each Public Records Act request.



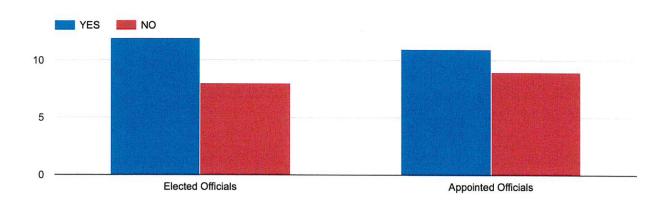
4. How many requests do you receive per year? 20 responses



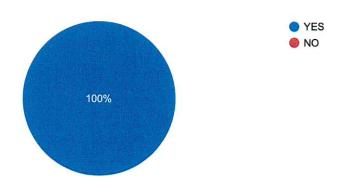
# 5. Does your city mandate formal Public Records Act training for key employees? 20 responses



# 6. Does your city offer Public Records Act training for elected and appointed officials (i.e. advisory boards, commissions, committees)?



# 7. Have you adopted a written document retention policy? 20 responses



#### APPENDIX B

# PRA Policies and Procedures: Atherton and Redwood City

Atherton: <a href="https://www.sanmateocourt.org/documents/grand\_jury/2021/Appendix B - PRA PAP Atherton.pdf">https://www.sanmateocourt.org/documents/grand\_jury/2021/Appendix B - PRA PAP Atherton.pdf</a>

Redwood City: <a href="https://www.sanmateocourt.org/documents/grand\_jury/2021/Appendix B - PRA">https://www.sanmateocourt.org/documents/grand\_jury/2021/Appendix B - PRA</a>
<a href="PAP Redwood City.pdf">PAP Redwood City.pdf</a>

# APPENDIX C San Bruno PRA Request Log (sample page with requester names removed)

#	PRA	Sbpna	Date of	Date Received	Requester Name	Description of	Dept(s)	Response	Acknowledgment	Records
1	х		07/01/21	07/01/21		June 2021 Building permits	CD	07/12/21	Emailed rsps on 07/08/21	07/08/21
2	х		07/01/21	07/01/21		Docs re CPUC approval of purchase of streetlights from	PW	07/12/21	Emailed rsps on 07/08/21	7/8/2021
3	x		07/07/21	07/07/21		Records involving code enforcement, utility shut offs, and fire damaged properties	CD/CE/FD/ Finance	07/19/21 08/18/21	req <u>30 day ext</u> - now due 08/18/21. Emailed <u>rsps</u> on 08/18/21	08/18/21
4	х		07/08/21	07/08/21		June 2021 Business licenses	Finance	07/19/21	Emailed report on 07/19/21	07/19/21
5	х		07/13/21	7/13/2021		June 2021 Building permits	CD	07/23/21	Emailed rsps on 07/13/21	7/13/2021
6	х		07/13/21	07/13/21		Records involving code enforcement, utility shut offs, and fire damaged properties	CD/CE/FD/ Finance	7/23/2021 08/23/21	07/23/21 req 30 day ext - now due 08/23/21. Emailed rsps on 08/18/21.	08/18/21
7		х				Subpoena for records involving 692 Green Ave	CE/CD/ PW	07/19/21	Emailed rcds on 07/23/21	07/23/21
8	х		07/14/21	07/15/21		Oldest current standing houses in SB	CD??	07/26/21	Emailed rsps on 07/23/21	х
9	х		07/15/21	07/15/21		Private tows from 04/01/21 thru 06/30/21	PD	07/26/21	Emailed report on 07/26/21	07/26/21
10	х		07/17/21	07/19/21		Electronic copy of all payment transactions for fiscal year 2020	Finance	07/29/21	Emailed link to agenda packets on 07/29/21	7/29/2021
11	X		07/20/21	07/20/21		2020 Pension Benefit/Payout Report	Finance	07/30/21	Request was meant for City of Concord - withdrawn on 07/31/21	Withdrawn
12	Х		07/19/21	07/20/21		Uncashed checks	Finance	07/30/21	Emailoed link to website on 07/29/21	7/29/2021
13	х		07/22/21	07/22/21		Building & FD rcds for 787 E SB Ave	CD/FD	08/02/21	Emailed rcds on 08/02/21	8/2/2021
14	x		07/09/21	07/09/21		Firearm & Ammunition arrests & related demographic	PD	7/19/2021 08/18/21	req <u>30 day ext</u> - now due 08/18/21. Emailed <u>rsps</u> on 08/18/21	8/18/2021

## APPENDIX D GovQA Proposal for Services



Order Form

#### **PRICING SUMMARY**

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Solution	Billing Frequency	Quantity/Unit	One-Time Fee	
FOIA Platform Onboarding	Up Front	1 Each	\$0.0	
Online Training – Administrator	Up Front	1 Each	\$0.00	
Online Training – Users	Up Front	1 Each	\$0.00	
		SUBTOTAL:	\$0.00	
New Subscription Fees				
Solution	Billing Frequency	Quantity/Unit	Annual Fee	
Essentials Package 3	Annual	1 Each	\$10,500.00	
PST Email Extractor	Annual	1 Each	\$1,500.00	
Payments Module	Annual	1 Each	\$0.00	
Hosted Data Storage (TB)	Annual	1 Each	\$0.00	
Invoicing Module	Annual	1 Each	\$0.00	
FOIA Module for Enterprise Sales	Annual	1 Each	\$0.00	
Redaction License (per named user)	Annual	3 Each	\$0.00	
ADFS/Single Sign-on Module	Annual	1 Each	\$0.00	
Advanced Email Tracking	Annual	1 Each	\$0.00	
	Address of the Control of the Contro	SUBTOTAL:	\$12,000.00	



Saluttan(A)	Period of Performance				
Solution(s)	Year 2	Year 3			
Essentials Package 3	\$11,235.00	\$12,021.45			
PST Email Extractor	\$1,605.00	\$1,717.35			
Payments Module	\$0.00	\$0.00			
Hosted Data Storage (TB)	\$0.00	\$0.00			
Invoicing Module	\$0.00	\$0.00			
FOIA Module for Enterprise Sales	\$0.00	\$0.00			
Redaction License (per named user)	\$0.00	\$0.00			
ADFS/Single Sign-on Module	\$0.00	\$0.00			
Advanced Email Tracking	\$0.00	\$0.00			
SUBTOTAL:	\$12,840.00	\$13,738.80			

# APPENDIX E South San Francisco Records Retention Schedule 2016

https://www.sanmateocourt.org/documents/grand\_jury/2021/Appendix E - SSF Retention Schedule 2016.pdf

# APPENDIX F City of San Mateo's Clean-Up Day Staff Plan and Flyer

# San Mateo Records Clean-Up Day Staff Plan

Department/Location/Division: Your Name:	Date of Clean-Up: May 05, 2022 Cinco De Mayo This Form Due To Your Dept. Record Coordinator 4/28/22						
Goal(s) for clean-up day (select all that apply)  Prepare paper records for destruction  Dispose of duplicate records  Prepare records for off-site storage  Sort through off-site storage records  File paper files  Develop file inventory	Email clean-up (delete unnecessary emails. Move attachments that are records to the correct records repository e.g., One Drive, SharePoint, Laserfiche)  Identify electronic records that are eligible for destruction  Focus on imaging, indexing electronic records  Ensure website content is accurate and up-to-date (Remove old/outdated documents and/ or pages from website)  Other:						
Key Activities and Strategies: What will you do to accomplish these goals? Be as specific as possible.							

# Welcome Back San Mateo

# ANNUAL CINCO DE MAYO RECORDS CLEAN-UP DAY PICNIC

Let's Celebrate being together in person again with a picnic of specialty tacos in our backyard with your colleagues!

How to join the fun (and yes, records clean-up is fun!)

- Ask your Department's Records Coordinator for a records clean-up commitment form.
- 2. Choose from a list of clean-up activities or create your own
- Sign the form and provide it to your Records Coordinator by April 28,
   2022 this is your RSVP for the luncheon. Sorry: No form no tacos.
- 4. On or before 5/5/22 clean-up, purge, & organize those records!

Questions? Talk to your Records Coordinator or Alesha Boyd in the City Clerk's Office

#### Join us here!



### Join us for Tacos in City Hall Backyard 11:00 am - 12:30 pm

Courtesy of the Clerks for anyone who committed to Records Clean-up

- Salad
- · Tacos Grilled Chicken, Steak, Carnitas
- Veggie Spanish Rice and Veggie Beans
- · Grilled Veggies
- · Guacamole, sour cream and cheese fixins
- Corn tortillas
- Chips and Salsa
- Churros for dessert! Yum!









#### City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Jennifer Dianos, Assistant to the City Manager

**SUBJECT**: Adopt Resolution Declaring the Continued State of Local Emergency and

Need for the City Council and Other Legislative Bodies Subject to the Ralph M. Brown Act to Continue to Teleconference in Order to Ensure the

Health and Safety of the Public Pursuant to AB 361

**BACKGROUND**: On March 4, 2020, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-at-home order, requiring all nonessential personnel to work from home.

In response to the Executive Order, City of San Bruno staff created Zoom accounts for various departments and underwent training to ensure that City Council meetings could continue safely for the City Council members, City staff, and members of the public. The City Council has conducted virtual meetings since April 2020 and the City's Commissions, Boards and Committees began meeting virtually in June 2020. The usage for Zoom for public meetings has allowed the City to ensure the public's continued access to government meetings while also ensuring the public's safety.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021 for agencies to transition back to public meetings held in full compliance with the Ralph M. Brown Act. Since Executive Order N-08-21 was enacted, various COVID-19 variants have emerged, which has resulted in an increase or steady amount of confirmed COVID-19 cases throughout San Mateo County. Taking these factors into account, the City of San Bruno has continued its public meetings in the virtual setting and wishes to maintain this format to preserve the health and safety of its staff, elected officials and constituents.

AB 361 was signed into law by the Governor on September 16, 2021, went into effect immediately as urgency legislation (codified under Government Code § 54953), and allows local legislative bodies to continue to meet remotely beyond the current executive order's expiration

of September 30, 2021, in any of the following circumstances:

- The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (Government Code § 54953(e)(1)(A)-(C).)

On February 17, 2022, Governor Gavin Newsom lifted several states of emergency that were in place in California but kept the state of emergency for COVID-19 intact. The City of San Bruno state of emergency continues to remain active, as well.

**DISCUSSION**: City staff have reviewed the provisions as detailed in AB 361, signed into law by Governor Newsom in September 2021, and determined the following findings can be made to meet the above provisions of AB 361:

- The State of California remains under the COVID-19 state of emergency proclaimed by the Governor pursuant to the California Emergency Services Act.
- The emergency continues to directly impact the ability of members to meet safely in person.

On October 26, 2021, during a regular meeting, the City Council adopted a resolution making necessary findings so that the City may continue to teleconference public meetings without adhering to all of the Brown Act's teleconferencing requirements, in order to ensure the health and safety of the public. The public has the ability to attend public meetings by teleconference accessibility via call-in option or an internet-based service option (via the Zoom Webinars platform). Meeting details, including the Zoom link and accessible phone numbers, are listed on the published agenda for each meeting. City staff provides access for public comment during the meeting by participants in the Zoom meeting or by phone in real time. Written public comments are also accepted by email, at CityClerk@sanbruno.ca.gov, prior to the meetings, and as detailed on the published agenda.

The City of San Bruno has also made City Council meetings available on the City of San Bruno's YouTube channel and San Bruno CityNet Services' local Channel 1.

The City Council may continue to teleconference public meetings under AB 361 if the City Council makes findings every 30 days during the proclaimed state of emergency.

**FISCAL IMPACT**: There is no fiscal impact.

**ENVIRONMENTAL IMPACT**: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

**RECOMMENDATION:** Adopt Resolution Declaring the Continued State of Local Emergency and Need for the City Council and Other Legislative Bodies Subject to the Ralph M. Brown Act to Continue to Teleconference in Order to Ensure the Health and Safety of the Public Pursuant to AB 361.

**ALTERNATIVES:** The City Council may choose to not adopt the resolution or adjust staff's findings; however, if a resolution is not adopted, the City may not be subject to the Brown Act exemptions that would be allowed under AB 361.

#### **ATTACHMENTS:**

- 1. Resolution
- 2. Governor's Executive Order N-29-20
- 3. Governor's Executive Order N-08-21
- 4. AB 361

# RESOLUTION NO. 2022 -\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO DECLARING THE CONTINUED STATE OF LOCAL EMERGENCY AND NEED FOR THE CITY COUNCIL AND OTHER CITY LEGISLATIVE BODIES SUBJECT TO THE RALPH M. BROWN ACT TO CONTINUE TO TELECONFERENCE IN ORDER TO ENSURE THE HEALTH AND SAFETY OF THE PUBLIC PURSUANT TO AB 361

**WHEREAS,** on March 4, 2020, the Governor of California proclaimed a State of Emergency to exist in the State of California as a result of the threat of novel coronavirus disease 2019 (COVID-19); and

WHEREAS, on March 17, 2020, the Governor of California executed Executive Order N-29-20 which suspended and modified specified provisions in the Ralph M. Brown Act (Government Code Section § 54950 et seq.) and authorized local legislative bodies to hold public meetings via teleconferencing and to make public meeting accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body; and

WHEREAS, on June 11, 2021, the Governor of California executed Executive Order N-08-21 which extended the provisions of Executive Order N-29-20 concerning teleconference accommodations for public meetings through September 30, 2021; and

**WHEREAS**, the City of San Bruno, including its City Council and all other legislative bodies subject to the Ralph M. Brown Act ("Brown Act Bodies") have been holding meetings using teleconferencing and virtual meeting technology in an effort to help protect City officials, City staff and the public from COVID-19; and

**WHEREAS**, due to the increase or steady amount of confirmed COVID-19 cases throughout San Mateo County, the City remains cautious and concerned about the health and safety of all individuals who intend to attend public meetings of the City in person; and

**WHEREAS,** on September 16, 2021, the Governor of California signed into law Assembly Bill 361 (AB 361, Rivas) into law as an urgency measure that went into effect immediately; and

**WHEREAS,** AB 361 authorizes local legislative bodies to continue to conduct meetings using teleconferencing without complying with the Ralph M. Brown Act's standard teleconferencing requirements if certain conditions are met; and

**WHEREAS,** AB 361 requires local findings that meeting in person would present an imminent risk to the health and safety of attendees; and

**WHEREAS,** the City desires to continue conducting public meetings of its Brown Act Bodies using teleconferencing as authorized by AB 361.

# NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN BRUNO RESOLVES AS FOLLOWS:

- 1. The City Council hereby finds and determines that the foregoing recitals are true and correct; the recitals are hereby incorporated by reference into each of the findings as though fully set forth therein.
- 2. In compliance with AB 361, the City Council makes the following findings:
  - a. The City Council has reconsidered the circumstances of the state of emergency, and the state of emergency remains active; and
  - b. The state of emergency continues to directly impact the ability of the City's Brown Act Bodies, as well as staff and members of the public, to meet safely in person; and
- 3. Meetings of the City's Brown Act Bodies will continue to be conducted via teleconference, pursuant to AB 361.
- 4. This resolution will be effective upon adoption.

	—oOo—
	I hereby certify that foregoing Resolution No. 2022 was adopted by the San Bruno City Council at a regular meeting on October 25, 2022, by the following vote:
AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ATTEST:	
Vicky Hasha, <i>Deputy City Clerk</i>	

# EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

#### **EXECUTIVE ORDER N-29-20**

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

**WHEREAS** the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

WHEREAS time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

WHEREAS social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM,** Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

### IT IS HEREBY ORDERED THAT:

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

- 2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare an Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
- 3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations:
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day

of Marc № 2020.

GAVINIMEWSOM

Governor of California

ATTEST:

ALEX PADILLA Secretary of State

# EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

#### **EXECUTIVE ORDER N-08-21**

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** since March 2020, the State has taken decisive and meaningful actions to reduce the spread, and mitigate the impacts, of COVID-19, saving an untold number of lives; and

**WHEREAS** as a result of the effective actions Californians have taken, as well as the successful and ongoing distribution of COVID-19 vaccines, California is turning a corner in its fight against COVID-19; and

**WHEREAS** on June 11, 2021, I issued Executive Order N-07-21, which formally rescinded the Stay-at-Home Order (Executive Order N-33-20, issued on March 19, 2020), as well as the framework for a gradual, risk-based reopening of the economy (Executive Order N-60-20, issued on May 4, 2020); and

**WHEREAS** in light of the current state of the COVID-19 pandemic in California, it is appropriate to roll back certain provisions of my COVID-19-related Executive Orders; and

WHEREAS certain provisions of my COVID-19 related Executive Orders currently remain necessary to continue to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic, including California's ongoing vaccination programs, and the termination of certain provisions of my COVID-19 related Executive Orders during this stage of the emergency would compound the effects of the emergency and impede the State's recovery by disrupting important governmental and social functions; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would continue to prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM,** Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

## IT IS HEREBY ORDERED THAT:

The following provisions shall remain in place and shall have full force and effect through June 30, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.

- 1) State of Emergency Proclamation dated March 4, 2020:
  - a. Paragraph 10. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
  - b. Paragraph 11;
  - c. Paragraph 12; and
  - d. Paragraph 13.
- 2) Executive Order N-25-20:
  - a. Paragraph 1; and
  - b. Paragraph 7, and as applicable to local governments per Executive Order N-35-20, Paragraph 3. Effective July 1, 2021, the waivers in Executive Order N-25-20, Paragraph 7, and Executive Order N-35-20, Paragraph 3, of reinstatement requirements set forth in Government Code sections 7522.56(f) and (g) are terminated.
- 3) Executive Order N-26-20:
  - a. Paragraph 1;
  - b. Paragraph 2;
  - c. Paragraph 3;
  - d. Paragraph 5;
  - e. Paragraph 6; and
  - f. Paragraph 7.
- 4) Executive Order N-27-20:
  - a. Paragraph 1;
  - b. Paragraph 2; and
  - c. Paragraph 3.
- 5) Executive Order N-28-20:
  - a. Paragraph 3; and
  - b. Paragraph 6.
- 6) Executive Order N-31-20:
  - a. Paragraph 1; and
  - b. Paragraph 2.
- 7) Executive Order N-35-20:
  - a. Paragraph 1. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
  - b. Paragraph 4;
  - c. Paragraph 6. To the extent the Director exercised their authority pursuant to this provision on or before June 30, 2021, the extension shall remain valid until the effective expiration;

- d. Paragraph 10. The State Bar shall receive the time extension in the aforementioned order for any nomination submitted to the State Bar by the Governor on or before June 30, 2021; and
- e. Paragraph 11 (as extended and clarified by N-71-20, Paragraph 6). Claims accruing before June 30, 2021 will remain subject to the 120-day extension granted in the aforementioned orders.
- 8) Executive Order N-36-20, Paragraph 1. To the extent the Secretary exercised their authority pursuant to this provision, the Secretary shall allow each facility to resume intake in a manner that clears intake backlog as soon as feasible.
- 9) Executive Order N-39-20:
  - a. Paragraph 1. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
  - b. Paragraph 4; and
  - c. Paragraph 7. The leases or agreements executed pursuant to this provision shall remain valid in accordance with the term of the agreement.
- 10) Executive Order N-40-20:
  - a. Paragraph 1. For rulemakings published in the California Regulatory Notice Register pursuant to Government Code section 11346.4(a)(5) prior to June 30, 2021, the deadlines in the aforementioned order shall remain extended in accordance with the order;
  - b. Paragraph 2 (as extended and clarified by N-66-20, Paragraph 12, and N-71-20, Paragraph 10). Notwithstanding the expiration of this provision, state employees subject to these training requirements shall receive the benefit of the 120-day extension granted by the aforementioned orders. All required training due on or before June 30, 2021 must be completed within 120 days of the statutorily prescribed due date;
  - c. Paragraph 7 (as extended and clarified by N-66-20, Paragraph 13 and N-71-20, Paragraph 11). With regard to appeals received on or before June 30, 2021, the State Personnel Board shall be entitled to the extension in the aforementioned order to render its decision;
  - d. Paragraph 8. To the extent the deadlines specified in Government Code section 22844 and California Code of Regulations, title 2, sections 599.517 and 599.518 fell on a date on or before June 30, 2021 absent the extension, they shall expire pursuant to the timeframes specified in the aforementioned orders;
  - e. Paragraph 16;
  - f. Paragraph 17; and
  - g. Paragraph 20.
- 11) Executive Order N-45-20:
  - a. Paragraph 4;
  - b. Paragraph 8;
  - c. Paragraph 9; and

- d. Paragraph 12. For vacancies occurring prior to June 30, 2021, the deadline to fill the vacancy shall remain extended for the time period in the aforementioned order.
- 12) Executive Order N-46-20:
  - a. Paragraph 1; and
  - b. Paragraph 2.
- 13) Executive Order N-47-20:
  - a. Paragraph 2; and
  - b. Paragraph 3.
- 14) Executive Order N-48-20, Paragraph 2 (which clarified the scope of N-34-20).
- 15) Executive Order N-49-20:
  - a. Paragraph 1;
  - Paragraph 3. For determinations made on or before June 30, 2021, the discharge date shall be within 14 days of the Board's determination; and
  - c. Paragraph 4.
- 16) Executive Order N-50-20, Paragraph 2.
- 17) Executive Order N-52-20:
  - a. Paragraph 6;
  - b. Paragraph 7. To the extent an individual has commenced a training program prior to June 30, 2021, that was interrupted by COVID-19, that individual shall be entitled to the extended timeframe in the aforementioned order; and
  - c. Paragraph 14; and
  - d. Paragraph 16.
- 18) Executive Order N-53-20:
  - a. Paragraph 3;
  - b. Paragraph 12 (as extended or modified by N-69-20, Paragraph 10, and N-71-20, Paragraph 27); and
  - c. Paragraph 13 (as extended or modified by N-69-20, Paragraph 11, and N-71-20, Paragraph 28).
- 19) Executive Order N-54-20, Paragraph 7. To the extent the date governing the expiration of registration of vehicles previously registered in a foreign jurisdiction falls on or before June 30, 2021, the deadline is extended pursuant to the aforementioned orders.
- 20) Executive Order N-55-20:
  - a. Paragraph 1. Statutory deadlines related to cost reports, change in scope of service requests, and reconciliation requests occurring on

or before June 30, 2021 shall remain subject to the extended deadline in the aforementioned order;

- b. Paragraph 4;
- c. Paragraph 5;
- d. Paragraph 6;
- e. Paragraph 8;
- f. Paragraph 9;
- g. Paragraph 10;
- h. Paragraph 13;
- i. Paragraph 14. Statutory deadlines related to beneficiary risk assessments occurring on or before June 30, 2021 shall remain subject to the extended deadline in the aforementioned order; and
- j. Paragraph 16. Deadlines for fee-for-service providers to submit information required for a Medical Exemption Request extended on or before June 30, 2021 shall remain subject to the extended deadline granted under the aforementioned order.

## 21) Executive Order N-56-20:

- a. Paragraph 1;
- b. Paragraph 6;
- c. Paragraph 7;
- d. Paragraph 8;
- e. Paragraph 9; and
- f. Paragraph 11.
- 22) Executive Order N-59-20, Paragraph 6.
- 23) Executive Order N-61-20:
  - a. Paragraph 1;
  - b. Paragraph 2;
  - c. Paragraph 3; and
  - d. Paragraph 4.

#### 24) Executive Order N-63-20:

- a. Paragraph 8(a) (as extended by N-71-20, Paragraph 40). The deadlines related to reports by the Division of Occupational Safety and Health (Cal/OSHA) and the Occupational Safety & Health Standards Board on proposed standards or variances due on or before June 30, 2021 shall remain subject to the extended timeframe;
- b. Paragraph 8(c). To the extent the date upon which the Administrative Director must act upon Medical Provider Network applications or requests for modifications or reapprovals falls on or before June 30, 2021 absent the extension in the aforementioned order, it shall remain subject to the extended timeframe;
- c. Paragraph 8(e). To the extent filing deadlines for a Return-to-Work Supplement appeal and any reply or responsive papers fall on or before June 30, 2021, absent the extension in the aforementioned order, they shall remain subject to the extended timeframe;
- d. Paragraph 9(a) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for the Labor Commissioner to

issue any citation under the Labor Code, including a civil wage and penalty assessment pursuant to Labor Code section 1741, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;

- e. Paragraph 9(b) (as extended and modified by N-71-20, Paragraph 41);
- f. Paragraph 9(c) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for a worker to file complaints and initiate proceedings with the Labor Commissioner pursuant to Labor Code sections 98, 98.7, 1700.44, and 2673.1, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;
- g. Paragraph 9(d) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for Cal/OSHA to issue citations pursuant to Labor Code section 6317, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;
- h. Paragraph 9(e) (as extended and modified by N-71-20, Paragraph 41);
- i. Paragraph 10;
- Paragraph 12. Any peace officer reemployed on or before June 30, 2021 pursuant to the aforementioned order shall be entitled to the extended reemployment period set forth in the order;
- k. Paragraph 13;
- I. Paragraph 14; and
- m. Paragraph 15 (as extended by N-71-20, Paragraph 36).

## 25) Executive Order N-65-20:

- a. Paragraph 5 (as extended by N-71-20, Paragraph 35; N-80-20, Paragraph 4; and N-01-21). Identification cards issued under Health and Safety Code section 11362.71 that would otherwise have expired absent the aforementioned extension between March 4, 2020 and June 30, 2021 shall expire on December 31, 2021; and
- b. Paragraph 7.

## 26) Executive Order N-66-20:

- a. Paragraph 3;
- b. Paragraph 4; and
- c. Paragraph 5.

## 27) Executive Order N-68-20:

- a. Paragraph 1. Notwithstanding the expiration of the aforementioned order, temporary licenses granted on or before June 30, 2021 shall be valid through September 30, 2021; and
- b. Paragraph 2. Renewal fee payments otherwise due to the to the California Department of Public Health absent the extension in the aforementioned order on or before June 30, 2021, shall be entitled to the extensions of time set forth in the aforementioned order.

## 28) Executive Order N-71-20:

- a. Paragraph 1;
- b. Paragraph 4;
- c. Paragraph 16. Where the statutory deadline for opening or completing investigations is set to occur on or before June 30, 2021, the deadline shall remain subject to the extension in the aforementioned order; and
- d. Paragraph 17. Where the statutory deadline for serving a notice of adverse action is due on or before June 30, 2021, the deadline shall remain subject to the extension in the aforementioned order.

## 29) Executive Order N-75-20:

- a. Paragraph 7. Children placed in foster care on or before June 30, 2021 shall receive such examinations on or before July 31, 2021;
- b. Paragraph 8;
- c. Paragraph 9;
- d. Paragraph 10. Any facility operating under a waiver pursuant to this provision may operate pursuant to such a waiver through the expiration as set forth by the California Department of Public Health, or September 30, 2021, whichever occurs first; and
- e. Paragraph 13.
- 30) Executive Order N-76-20, Paragraph 3.
- 31) Executive Order N-77-20:
  - a. Paragraph 1;
  - b. Paragraph 2; and
  - c. Paragraph 3.
- 32) Executive Order N-78-20 (as extended and modified by N-03-21):
  - a. Paragraph 1; and
  - b. Paragraph 2.

#### 33) Executive Order N-83-20:

a. Paragraph 3. To the extent the Director of the Department of Alcoholic Beverage Control suspends deadlines for renewing licenses upon payment of annual fees on or before June 30, 2021, the extension shall remain valid until the effective expiration;

- b. Paragraph 5 (which repealed and replaced N-71-20, Paragraph 19, which extended N-52-20, Paragraph 1, and N-69-20, Paragraph 3);
- c. Paragraph 6 (which repealed and replaced N-71-20, Paragraph 20, which extended N-52-20, Paragraph 2, and N-69-20, Paragraph 4); and
- d. Paragraph 7 (which repealed and replaced N-71-20, Paragraph 21, which extended N-52-20, Paragraph 3, and N-69-20, Paragraph 5).
- 34) Executive Order N-84-20:
  - a. Paragraph 1;
  - b. Paragraph 2;
  - c. Paragraph 3; and
  - d. Paragraph 5.

The following provisions shall remain in place and shall have full force and effect through July 31, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.

- 35) Executive Order N-39-20, Paragraph 8 (as extended by N-69-20, Paragraph 2 and N-71-20, Paragraph 8).
- 36) Executive Order N-53-20, Paragraph 11 (as extended or modified by N-68-20, Paragraph 15, and N-71-20, Paragraph 26).
- 37) Executive Order N-71-20, Paragraph 25.
- 38) Executive Order N-75-20:
  - a. Paragraph 5; and
  - b. Paragraph 6

The following provisions shall remain in place and shall have full force and effect through September 30, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.

- 39) State of Emergency Proclamation dated March 4, 2020:
  - a. Paragraph 3; and
  - b. Paragraph 14. Any facility operating under a waiver pursuant to this provision may operate pursuant to such a waiver through the expiration as set forth by the Department of Social Services, or September 30, 2021, whichever occurs first.
- 40) Executive Order N-25-20:
  - a. Paragraph 2;
  - b. Paragraph 3; and
  - c. Paragraph 4.
- 41) Executive Order N-28-20:
  - a. Paragraph 4; and
  - b. Paragraph 5.

42) Executive Order N-29-20, Paragraph 3, is withdrawn and replaced by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations:
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply through September 30, 2021.

- 43) Executive Order N-32-20:
  - a. Paragraph 1;
  - b. Paragraph 2; and
  - c. Paragraph 3.
- 44) Executive Order N-35-20:
  - a. Paragraph 2; and
  - b. Paragraph 12.
- 45) Executive Order N-39-20:
  - a. Paragraph 2;
  - b. Paragraph 3; and
  - c. Paragraph 6.

- 46) Executive Order N-40-20:
  - a. Paragraph 12 (as extended or modified by N-66-20, paragraph 16, N-71-20, paragraph 14, and N-75-20, Paragraph 12). To the extent the Director exercised their authority pursuant to this provision on or before September 30, 2021, the extension shall remain valid until the effective expiration of the applicable waiver; and
  - b. Paragraph 18.
- 47) Executive Order N-42-20.
- 48) Executive Order N-43-20.
- 49) Executive Order N-49-20, Paragraph 2.
- 50) Executive Order N-54-20:
  - a. Paragraph 8 (as extended by N-80-20, Paragraph 6); and
  - b. Paragraph 9. To the extent any timeframe within which a California Native American tribe must request consultation and the lead agency must begin the consultation process relating to an Environmental Impact Report, Negative Declaration, or Mitigated Negative Declaration under the California Environmental Quality Act extends beyond September 30, 2021, the tribe and lead agency will receive the benefit of the extension so long as the triggering event occurred on or before September 30, 2021.
- 51) Executive Order N-55-20:
  - a. Paragraph 2;
  - b. Paragraph 3;
  - c. Paragraph 7. All on-site licensing visits which would have been due on or before September 30, 2021 shall occur before December 31, 2021:
  - d. Paragraph 11; and
  - e. Paragraph 12.
- 52) Executive Order N-56-20, Paragraph 10 is withdrawn and superseded by the following text:

Paragraph 42 of this Order, including the conditions specified therein, shall apply to meetings held pursuant to Article 3 of Chapter 2 of Part 21 of Division 3 of Title 2 of the Education Code and Education Code section 47604.1(b).

- 53) Executive Order N-58-20 (as extended by N-71-20, Paragraph 29).
- 54) Executive Order N-59-20:
  - a. Paragraph 1. The sworn statement or verbal attestation of pregnancy must be submitted on or before September 30, 2021 and medical verification of pregnancy must be submitted within 30

- working days following submittal of the sworn statement or verbal attestation for benefits to continue;
- b. Paragraph 2 (as extended and modified by N-69-20, Paragraph 14, and N-71-20, Paragraph 31);
- c. Paragraph 3 (as extended and modified by N-69-20, Paragraph 15, and N-71-20, Paragraph 32); and
- d. Paragraph 4 (as extended and modified by N-69-20, Paragraph 16, and N-71-20, Paragraph 33).
- 55) Executive Order N-63-20:
  - a. Paragraph 8(b). To the extent filing deadlines for claims and liens fall on or before September 30, 2021, absent the extension in the aforementioned order, they shall remain subject to the extended timeframe; and
  - b. Paragraph 11.
- 56) Executive Order N-66-20, Paragraph 6.
- 57) Executive Order N-71-20:
  - a. Paragraph 15;
  - b. Paragraph 22; and
  - c. Paragraph 23.
- 58) Executive Order N-75-20:
  - a. Paragraph 1;
  - b. Paragraph 2; and
  - c. Paragraph 4.
- 59) Executive Order N-80-20:
  - a. Paragraph 3; and
  - b. Paragraph 7.
- 60) Executive Order N-83-20
  - a. Paragraph 2 is withdrawn and replaced by the following text:

The deadline to pay annual fees, including any installment payments, currently due or that will become due during the proclaimed emergency, as specified in Business and Professions Code sections 19942, 19951, 19954, 19955, 19984, and any accompanying regulations is September 30, 2021; the deadlines for submission of any application or deposit fee, as specified in Business and Professions Code sections 19951 (a), 19867, 19868, 19876, 19877, 19942, 19984, and any accompanying regulations is no later than September 30, 2021, or per existing requirements, whichever date is later.

b. Paragraph 4.

61) Executive Order N-03-21, Paragraph 3, is withdrawn and replaced by the following text:

As applied to commercial evictions only, the timeframe for the protections set forth in Paragraph 2 of Executive Order N-28-20 (and extended by Paragraph 21 of Executive Order N-66-20, Paragraph 3 of Executive Order N-71-20, and Paragraph 2 of Executive Order N-80-20) is extended through September 30, 2021.

IT IS FURTHER ORDERED that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 11th day of June 2021.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D. Secretary of State

AMENDED IN SENATE SEPTEMBER 3, 2021

AMENDED IN SENATE AUGUST 30, 2021

AMENDED IN SENATE JULY 6, 2021

AMENDED IN ASSEMBLY MAY 10, 2021

AMENDED IN ASSEMBLY APRIL 6, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

# ASSEMBLY BILL

No. 361

## **Introduced by Assembly Member Robert Rivas**

February 1, 2021

An act to *add and repeal Section 89305.6 of the Education Code,* and to amend, repeal, and add Section 54953—of of, and to add and repeal Section 11133 of, the Government Code, relating to—local government, open meetings, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 361, as amended, Robert Rivas. Open meetings: *state and* local agencies: teleconferences.

# **Existing**

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special

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meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

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This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a-state *legislative* body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The

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act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

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This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

#### **This**

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to *state and* local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

#### **This**

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

### The

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect. This

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: <del>no</del> *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 89305.6 is added to the Education Code, 2 to read:
  - 89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.
  - (b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.
  - (2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:
  - (A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.
    - (B) Each teleconference location be accessible to the public.
- 23 (C) Members of the public may address the legislative body at 24 each teleconference conference location.
  - (D) Post agendas at all teleconference locations.

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(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

- (c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.
- (d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:
- (1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.
- (2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).
- (e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:
- (1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.
- (2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without

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also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

- (f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.
- (g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.
- SEC. 2. Section 11133 is added to the Government Code, to read:
- 11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.
- (b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.
- (2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:
- (A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.
  - (B) Each teleconference location be accessible to the public.
- (C) Members of the public may address the state body at each teleconference conference location.
- (D) Post agendas at all teleconference locations.

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(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

- (c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.
- (d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:
- (1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.
- (2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).
- (e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:
- (1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.
- (2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and

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comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

- (f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.
- (g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

# SECTION 1.

- SEC. 3. Section 54953 of the Government Code is amended to read:
- 54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.
- (b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.
- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and

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agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.
- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.
- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the

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number and access codes are identified in the notice and agenda
of the meeting.
(2) Nothing in this subdivision shall be construed as

- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.
- (e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:
- (A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- (B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B) (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

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(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

- (B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.
- (C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- (D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- (E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.
- (F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may

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be required to register as required by the third-party internet website or online platform to participate.

- (G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.
- (ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.
- (iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.
- (3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:
- (A) The legislative body has reconsidered the circumstances of the state of emergency.
  - (B) Any of the following circumstances exist:
- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.
- (4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).
- (f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

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SEC. 1.1.

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*SEC. 3.1.* Section 54953 of the Government Code is amended to read:

- 54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to,—the any applicable language access and other nondiscrimination—obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code. obligations.
- (b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.
- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

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(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.
- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

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(3) For purposes of this subdivision, a health authority means 2 any entity created pursuant to Sections 14018.7, 14087.31, 3 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare 4 and Institutions Code, any joint powers authority created pursuant 5 to Article 1 (commencing with Section 6500) of Chapter 5 of 6 Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory 8 committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the 10 Health and Safety Code if the advisory committee has 12 or more members.

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- (e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:
- (A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- (B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B) (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:
- (A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.
- (B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda

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shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

- (C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- (D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- (E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.
- (F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.
- (G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.
- (ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda

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item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

- (iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.
- (3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:
- (A) The legislative body has reconsidered the circumstances of the state of emergency.
  - (B) Any of the following circumstances exist:
- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.
- (4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).
- (f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

<del>SEC. 2.</del>

- SEC. 4. Section 54953 is added to the Government Code, to read:
- 54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.
- 38 (b) (1) Notwithstanding any other provision of law, the 39 legislative body of a local agency may use teleconferencing for 40 the benefit of the public and the legislative body of a local agency

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in connection with any meeting or proceeding authorized by law.
 The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.
- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations
- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter

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3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.
- 34 (e) This section shall become operative January 1, 2024.
- 35 SEC. 2.1.

- 36 SEC. 4.1. Section 54953 is added to the Government Code, to read:
- 38 54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in

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person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to,—the any applicable language access and other nondiscrimination—obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code. obligations.

- (b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.
- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.
- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.
- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

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(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.
- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to

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- Chapter 2.2 (commencing with Section 1340) of Division 2 of the
- 2 Health and Safety Code if the advisory committee has 12 or more 3 members.
- 4 (e) This section shall become operative January 1, 2024.
- 5 SEC. 3.
- 6 SEC. 5. Sections 1.1 3.1 and 2.1 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill 8 shall only become operative if (1) both bills are enacted and 10 become effective on or before January 1, 2022, but this bill 11 becomes operative first, (2) each bill amends Section 54953 of the 12 Government Code, and (3) this bill is enacted after Assembly Bill 13 339, in which case Section 54953 of the Government Code, as 14 amended by Sections + 3 and 24 of this bill, shall remain operative
- 15 only until the operative date of Assembly Bill 339, at which time
- 16 Sections 1.1 3.1 and 2.1 4.1 of this bill shall become operative.

17 SEC. 4.

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- SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.
- 25 SEC. 5.
  - SEC. 7. The Legislature finds and declares that Sections-1 3 and 2 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:
- 36 This act is necessary to ensure minimum standards for public 37 participation and notice requirements allowing for greater public 38 participation in teleconference meetings during applicable 39 emergencies.

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SEC. 8. (a) The Legislature finds and declares that during the 2 COVID-19 public health emergency, certain requirements of the 3 Bagley-Keene Open Meeting Act (Article 9 (commencing with 4 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of 5 the Government Code) were suspended by Executive Order 6 N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased 10 public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting 12 locations, have protected the health and safety of civil servants 13 and the public, and have reduced travel costs incurred by members 14 of state bodies and reduced work hours spent traveling to and from meetings. 16

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- (b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code. Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:
- (1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.
- (2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

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1 SEC. 6.

2 SEC. 9. This act is an urgency statute necessary for the 3 immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall 5 go into immediate effect. The facts constituting the necessity are: 6 In order to ensure that state and local agencies can continue holding public meetings while providing essential services like 7 8 water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that 10 this act take effect immediately.



# City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

Trisha Ortiz, Interim City Attorney

**SUBJECT:** Adopt Resolution Authorizing the City Manager to Convert an Existing

Legal Secretary Position Assigned to the City Attorney's Office to a

Management Analyst I/II Position

#### **BACKGROUND**

Personnel support assigned to the City of San Bruno's City Attorney's Office has historically consisted of two city positions – a full-time (in-house) City Attorney and a full-time Legal Secretary. Additional legal support is provided by outside counsel assigned to specific projects, managed under the direction of the City Attorney.

The City evaluated staffing for the City Attorney's office following the in-house City Attorney's announcement that he was retiring, and this report recommends converting the Legal Secretary position to a Management Analyst I/II position. The additional cost of this classification adjustment is projected at \$5,200 annually, inclusive of salary and benefit expenses. No additional budget appropriation is requested for the current 2022/23 fiscal year. Going forward, the additional costs will be incorporated into future annual budgets for the City Attorney's Office.

#### **DISCUSSION**

The following is a summary of the key duties assigned to the Legal Secretary position.

#### Office Administration

Answer phones, open mail, process office payroll, order office supplies, and update the City's law library. Draft, finalize and mail correspondence. Schedule City Attorney meetings. Coordinate depositions and deposition preparation meetings.

#### Invoice Processing

Processes City Attorney Office invoices and routes for review, approval and payment.

#### Worker's Compensation

Supports the City's workers' compensation claims administrator. Receives and processes medical injury claim packets as well as declination packets for submission to the claims administrator. Coordination with human resources and departmental

staff on work restrictions. Reviews and circulates work status reports and ensures proper workers' compensation leave/work classifications. Processing of workers' compensation invoices for payment.

#### Certificates of Insurance

Administration and tracking of Certificates of Insurances citywide from City vendors and issuance of City certificates in coordination with San Bruno's risk pool/insurance provider(s).

## Public Records Act Requests

Central administration of all Public Information Act Requests. Routes to appropriate department/staff for collection of documents, monitors response deadlines and provides reminders and requests extensions when necessary. Supports review by City Attorney and oversees final delivery of requested documents.

## Subpoenas

Central administration of all subpoenas received by the City. Routes to appropriate personnel, collects responsive documents and monitors response deadlines. Supports review by City Attorney and ensures timely compliance with all subpoenas requirements and submits Declaration of Custodian of Records Forms.

## Weapons Petition

Supports the Police Department with mental health related weapon pleadings. Drafts pleadings, supports City Attorney review and files with the Court within required timeframes.

## • City Property Damage Claims

Central processing for all claims for damage to City property. Coordinates with the Police Department, Public Works and the City Attorney as well as other invoiced parities. Drafts and sends demand letter to third parties and/or their insurance company. Coordinates Restitution Claims with the District Attorney's Office. Monitors all claims for payment and works with appropriate personnel to resolve non-payment issues.

## Third-Party Claims

Coordinates and tracks third-party claims against the City. Processes and circulates claims for review by the City Attorney and the City's risk pool/insurance provider(s). Drafts claim decision letters, where appropriate.

To support an adjustment of broader duties for the position, provide better internal alignment with other City positions, and increase the viable pool of candidates for the position, the City Manager recommends converting the position to a Management Analyst I/II position. The Management Analyst position is a flexible position, whereby the junior (I) and senior (II) level classifications are journey positions that increase based on knowledge, skills, and abilities of the incumbent/candidate. In contrast to the Legal Secretary duties, a Management Analyst's duties can be more project-driven and allow for strategic and focused work assignments to align with the City's current needs and priorities.

If approved, upon the conversation of the Legal Secretary position to a Management Analyst I/II position, the City Manager intends to make the following adjustments in duty/task assignments. Other job assignments may occur in the future.

- Office Administration: General administrative tasks will be split between the Management Analyst and other administrative staff within the City Manager's Office. Additionally, maintenance of the City's Law Library will be assigned to City Library staff.
- Public Records Act Requests and Subpoenas: Administration of these functions will be transitioned to the City Clerk's Office and overseen by the City Clerk.
- Risk Management: The Management Analyst position will support citywide risk
  management, monitor claims trends and work with all city departments to lower risk,
  reduce injury as well as support the development and implementation of risk
  reduction policies citywide. The position will also work with the City's risk
  pool/insurance provider(s) to implement best practices in risk reduction. This is a
  new role that is anticipated to be a major improvement in how the City supports and
  staffs' risk management.

The job description for the Management Analyst I/II is a board classification that is used across various City departments and the general duties and responsibilities that are assigned to the Legal Secretary position fit within the Management Analyst I/II position. Attachment 2 includes a copy of the current job description for the Legal Secretary position and Attachment 3 includes a copy of the current job description for the Management Analyst I/II position.

The Legal Secretary position is currently an unrepresented / confidential position. This personnel classification will remain if the position is converted to a Management Analyst I/II position.

#### **FISCAL IMPACT:**

The currently authorized annual salary ranges for the Legal Secretary and Management Analyst I/II positions are below.

Position	Min Annual Salary	Max Annual Salary
Legal Secretary	\$80,112	\$98,304
Management Analyst I	\$83,016	\$101,376
Management Analyst II	\$95,436	\$117,360

Staff recommends a budgeted funding level for the proposed Management Analyst I/II position at the top step (max salary) of the Management Analyst I position. This will allow for filling the position at the top step of the level "I" classification or up to the second step of the level "II" classification. The total salary difference of this change from the current budgeted

salary for the Legal Secretary position is \$3,072 (from \$98,304 to \$101,376). With related benefit costs, the estimated total annualized cost of the change is \$5,200 for FY 2022-23.

No additional budget appropriation is requested for the current 2022/23 fiscal year. If approved, the transition will likely occur in December 2022 and the projected additional cost in the current fiscal year is projected at 60% of the annualized estimated cost of \$5,200 (which is \$3,120). This amount will be funded with salary savings from vacant positions the City Manager's Office.

Going forward, the additional costs will be incorporated into future annual budgets for the City Attorney's Office.

## **ALTERNATIVES:**

1. Do not approve requested classification conversion and provide direction to maintain the current structure or an alternative position classification.

#### **RECOMMENDATION:**

Adopt Resolution Authorizing the City Manager to Convert an Existing Legal Secretary Position Assigned to the City Attorney's Office to a Management Analyst I/II Position.

## **ATTACHMENTS:**

- 1. Resolution
- 2. Attachment 2 Legal Secretary Job Description
- 3. Attachment 3 Management Analyst I/II Job Description

#### **RESOLUTION NO. 2022 -**

ADOPT RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVERT AN EXISTING LEGAL SECRETARY POSITION ASSIGNED TO THE CITY ATTORNEY'S OFFICE TO A MANAGEMENT ANALYST I/II POSITION

**WHEREAS**, the City of San Bruno's City Attorney's Office is currently staffed to include a full-time Legal Secretary position;

**WHEREAS**, the San Bruno City Council has received a report recommending the conversation of the Legal Secretary position to a Management Analyst I/II position;

**NOW, THEREFORE, BE IT RESOLVED** that the San Bruno City Council authorizes the City Manager to convert the existing Legal Secretary position assigned to the City Attorney's Office to a Management Analyst I/II position.

**BE IT FURTHER RESOLVED** that the San Bruno City Council hereby authorizes the salary adjustment of the conversion up to the currently assigned the top step (max salary) of the Management Analyst I position, estimated to cost additionally \$5,200 annually in FY 2022-23, without a new budgetary appropriation as the additional costs will be funded by already appropriated funds within the City Manager's Office.

Dated:	October 25, 2022
	<b>—</b> oOo—
	I hereby certify that foregoing Resolution No. 2022 was adopted by the San Bruno City Council at a regular meeting or October 25, 2022, by the following vote:
AYES:	Councilmembers:
NOES:	Councilmembers:
ABSE	NT: Councilmembers:
ATTES	T:
Vicky F	lasha, <i>Deputy City Clerk</i>



## Position Description

## LEGAL SECRETARY

## **GENERAL PURPOSE**

Provides a variety of routine, complex and confidential clerical, administrative, technical, paralegal and paraprofessional work in support of the City Attorney's Office. This position deals with matters often of a confidential nature, including, litigation, government tort claims, workers compensation claims, personnel, labor relations and other legal matters involving the City.

#### **DISTINGUISHING CHARACTERISTICS**

This position provides legal clerical, paralegal and paraprofessional support for the City Attorney's Office entailing specialized job duties such as using legal terminology, processes, forms, and reference materials and dealing with the public, elected officials, courts, attorneys, and City management staff. This is an advanced journey-level, highly confidential clerical position. This position is an at will, unclassified position covered by an employment agreement with the City.

#### SUPERVISION RECEIVED

Works under the direct supervision of the City Attorney.

#### SUPERVISION EXERCISED

None generally. May exercise supervision over clerical, temporary or other staff, as assigned.

## ESSENTIAL DUTIES AND RESPONSIBILITIES (Illustrative only)

Typing and assembling a variety of documents including correspondence, memoranda, resolutions, ordinances, pleadings, briefs, notices, contracts, agreements, leases, deeds, labor relations related documents, and other materials from corrected copy, computer files, rough drafts, notes, dictating equipment or brief instructions where legal form may be involved and where it is often necessary to assemble information and documents from various sources; Receiving and screening visitors and telephone calls;

Providing factual information to the public or City personnel using good judgment, tact and diplomacy;

Obtaining information pertaining to legal matters from a variety of sources, including City departments, courts, insurance companies, third-party claims administrators, outside law firms, legal texts, Westlaw, Lexis-Nexis and the Internet;

Performing the most complex clerical and administrative support to the City Attorney's Office including the organization and maintenance of various administrative, reference, and follow up files; making appointments and maintaining a calendar, scheduling and arranging for meetings and making travel and meeting related arrangements;

Working closely with the City Attorney to maintain a clear understanding and knowledge of the City Attorney's priorities, philosophies, goals and objectives and to assist in operating the office consistent with them; working collaboratively with other City staff.

Maintaining records and calendars of the processing of legal documents to ensure necessary deadlines are met;

Classifying, cross-referencing, indexing and filing legal related and City Attorney's Office documents using established filing system;

Gathering, reviewing and organizing documents in response to public records requests.

Arranging for the filing and service of court documents and reviewing and retrieving documents from court files.

Providing information and resolving complaints, which regularly require the use of judgment and the interpretation and application of policies and procedures.

Using current computer software programs to prepare drafts and final documents; reviewing finished materials for completeness, accuracy, format, compliance with policies and procedures, and appropriate English usage.

Investigating and following-up on citizen requests for service, complaints, and requests for information.

Performing other duties as assigned.

#### PERIPHERAL DUTIES

Attend seminars and workshops related to administrative duties and responsibilities.

May serve as a member of employee committees or groups.

May represent the City Attorney at various meetings and functions.

## MINIMUM QUALIFICATIONS

## **Education and Experience:**

Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

- (A) Graduation from a high school, or equivalent, supplemented by advanced legal related clerical training, and
- (B) A minimum of at least two (2) years of related legal clerical experience.

## Necessary Knowledge. Skills and Abilities:

- (A) Working knowledge of legal terminology, phraseology, forms, procedures, documents, court rules, legal style for California state and federal courts, general rules of citation, legal research, and law office operations and practices; office administrative and secretarial practices and procedures such as business letter writing; organization and functions of city government, including roles of elected officials and appointed board and commission members; correct English usage, including spelling, grammar, punctuation and vocabulary; office management techniques and budgeting principles and practices;
- (B) Skill in operation of tools and equipment listed below;
- (C) Ability to provide varied, responsible and confidential secretarial, administrative, paralegal and paraprofessional) support for the City Attorney; interpret, apply and explain complex policies and procedures; use tact, discretion, initiative and independent judgment within established guidelines; research, compile and summarize a variety of informational materials; compose correspondence independently or from brief instructions; accurately record and maintain records; establish and maintain effective working relationships with employees, supervisors, other departments, officials and the public; recommend solutions and adopt effective courses of action; plan, organize, and schedule priorities in the office communicate effectively verbally and in writing; and type at a net 55 wpm from printed copy.

#### SPECIAL REQUIREMENTS

Possession of and maintenance of California Driver's License.

#### **TOOLS & EQUIPMENT USED**

Typewriter, personal computer, including word processing, spreadsheet, data base and Internet software; mainframe computer terminal; 10-key calculator; phone; copy machine; fax machine and other modern office equipment.

## PHYCIAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit and talk or hear, use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to walk.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

## **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually quiet. At times, the work environment can be quite hectic and requires an ability to perform multiple tasks and maintain considerable tact when dealing with others, regardless of how one is treated by others.

## **SELECTION GUIDELINES**

Revision History:

Formal application, rating of education and experience; oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

employer and requirements of the job change.	
Effective Date:	



## **Position Description**

## MANAGEMENT ANALYST /

## **GENERAL PURPOSE**

Under general direction of a Department Head or designee, to perform responsible professional technical administrative duties in the provision of staff assistance to departments; to conduct financial and special studies, surveys and research assignments in a variety of administrative and operational procedures; may be responsible for oversight of programs, projects and/or financial and administrative subfunctions of the department; and performs related work as required.

## **DISTINGUSHING CHARACTERISTICS**

Management Analyst - This is the entry level position in the professional management series which can be assigned to various City operating departments. This class is distinguished from the Management Analyst II position by the performance of the more routine professional tasks and duties assigned to positions within this series. Employees at this level are not expected to perform with the same level of independence of direction and judgment on matters related to established procedures and guidelines as are tasks assigned to the Management Analyst II level. As this is an entry level or training class, employees may only have limited or no directly related work experience. Employees work under close supervision while learning tasks. This is a Fair Labor Standards Act (FLSA) exempt position.

<u>Management Analyst</u> - This is the full journey level class within the professional management series. This class is distinguished from the Management Analyst I by the assignment of the full range of professional duties in the assigned departmental functional area. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise and they are fully aware of the operating procedures and policies within the functional work area. Positions in this class are flexibly staffed and are normally filled by advancement from the Management Analyst I level. When filled from a competitive recruitment, the applicant should possess three (3) years of previous professional experience. Attainment of Master's Degree in Public Administration, a related field or other relevant professional certification or designation is desirable. This is a Fair Labor Standards Act (FLSA) exempt position.

#### SUPERVISION RECEIVED

Works under the general supervision of an assigned Department Head or other management staff member as designated by the Department Head.

## **SUPERVISION EXERCISED**

## Management Analyst

None generally. May exercise supervision over clerical support staff, temporary, seasonal, part-time or other staff, as assigned.

## Management Analyst

May exercise supervision over technical and clerical support staff, temporary, seasonal, part-time or other staff, as assigned.

## **ESSENTIAL DUTIES AND RESPONSIBILITIES (Illustrative Only)**

Assists in the development of short and long range plans; gathers, interprets, and prepares data for studies, reports and recommendations; coordinates activities with other city departments and outside agencies as needed.

Conducts surveys and performs research and statistical analyses; compile and analyze data; prepare summary reports; make recommendations based on information gathered. Designs financial forms, spreadsheets, and worksheets.

Analyzes City or departmental financial systems, practices, procedures, and ordinances; recommends, develops and implements improvements.

Provides professional advice to supervisor concerning management direction and oversight in assigned departmental area.

Participate in administering contracts including those related to capital improvement projects; monitor programs for compliance with applicable regulations.

Makes public presentations to supervisors, boards, commissions, civic groups and the general public as assigned; represents city and department at external activities.

Assures that assigned areas of responsibility are performed within budget; performs cost control activities; monitors revenues and expenditures in assigned area to assure sound fiscal control; assists in the preparation of annual budget requests.

Assist in the development, coordination and monitoring of the city and/or department budget; analyze costs; prepare a variety of fiscal, administrative and management reports. Corrects discrepancies in revenue and expenditure estimates.

Plans study of work problems and procedures such as organizational change, communications, information flow, integrated production methods, fixed assets, inventory control, or cost analysis.

Reviews and evaluates programs and services to determine how well they meet the legislative intent of the governing body.

Researches grant programs; prepares grant applications. Conducts operational effectiveness reviews and/or management audits to ensure functional or project systems are applied and functioning as designed and/or in compliance with established procedures.

Develops or updates functional or operational manuals outlining established methods of performing work in accordance with organizational policy.

Investigates and follows-up on citizen requests for service, complaints, and requests for information.

#### **PERIPHERAL DUTIES**

Reports for work at any time in event of disaster or other emergency situation; Interviews individuals to obtain data or draft correspondence to answer inquiries.

May review purchase requisitions to insure accuracy and compliance with the budget, policies, and procedures. Establishes purchase orders, agreements, and other contracts meeting the best interests of the City.

Reviews and keeps current on new laws and regulations affecting the organization.

Assists in the development of notices, flyers: brochures, newsletters, media releases, news articles, and other informational materials about programs and services.

Attend seminars and workshops related to administrative duties and responsibilities.

Serves as a member of various employee committees.

## **MINIMUM QUALIFICATIONS**

## **Education and Experience:**

#### Management Analyst

- (A) Graduation from a college or university with a bachelor's degree in public administration, political science, business management, or a closely related field,
- (B) No job experience required, however, one (1) year of related volunteer or internship experience is highly desirable.
- (C) Any equivalent combination of education and progressively responsible experience, with additional work experience substituting for the required education on a year for year basis.

## Management Analyst

- (A) Graduation from a college or university with a bachelor's degree in public administration, political science, business management, or a closely related field, and
- (B) Three (3) years of full-time administrative and analytical experience similar to Management Analyst I in the City of San Bruno;
- (C) Any equivalent combination of education and progressively responsible experience, with additional work experience substituting for the required education on a year for year basis.

## **Necessary Knowledge Skills and Abilities:**

- (A) Working knowledge of: principles and practices of modern public administration, office practices, procedures, methods and equipment; research techniques, problem solving methods and techniques, sources of information and availability of information and report preparation and presentation; principles and practices of government finance and enterprise fund finance, budgeting and accounting; organization and management practices as applied to the analysis and evaluation of programs, policies and operational needs; principles of budget preparation, analysis, monitoring and expenditure control; principles of modern personnel management, supervision and labor relations; working knowledge of functions in area of actual assignment (i.e., public works, human resources, finance)
- (B) Skill in operation of listed tools and equipment;
- (C) Ability to: accurately record and maintain records; establish and maintain effective working relationships with employees, supervisors, other departments, officials and the public; communicate in English effectively verbally and in writing; analyze fiscal, budgetary or administrative problems and propose solutions; read, interpret and understand complex rules, regulations and ordinances; work independently; analyze and review organizational and management problems and recommend and implement effective courses of action; draft and edit reports and various documents; learn, interpret and apply City policies, procedures, rules and regulations; perform advanced level research and project management; elicit cooperation of others; properly interpret and make decisions in accordance with laws, rules, and policies and to assimilate and understand information consistent with essential job duties; think clearly and work well under normal and high pressure situations; make sound judgments in a manner consistent with essential job duties.

#### SPECIAL REQUIREMENTS

Ability to obtain and maintain a valid California drivers license.

#### **TOOLS AND EQUIPMENT USED**

Typewriter, personal computer, including word processing, spreadsheet and data base software; 10-key calculator; phone; copy machine; fax machine; and vehicle.

#### PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit, talk and hear, use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to walk. Employee must maintain physical condition appropriate to performance of job duties which may include sitting for long periods of time and operating assigned office equipment, and maintain stamina to attend and participate in evening meetings as assigned.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

## **WORK ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Incumbents generally work in an office environment with extensive public contact. Incumbents may be required to work in the field on occasion. The noise level in the work environment is usually quiet, but can be moderately noisy. The noise level when in the field can be quite noisy.

#### SELECTION GUIDELINES AND GENERAL INFORMATION

Formal application, rating of education and experience; oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Effective Date:			
Revision History:			
Resolution:			

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## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Monica Walker, Human Resources Manager

**SUBJECT**: Adopt Resolution Approving Publicly Available Pay Schedule Effective

October 25, 2022, Pursuant to the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and

Title 2 of the California Code of Regulations (CCR)

**BACKGROUND**: Based on recent salary changes resulting from bargaining unit contracts approved by City Council, staff proposes to adopt a resolution approving the current salary schedule for public posting. Per CalPERS Circular Letter 200-00320 issued January 8, 2020 (Exhibit A), the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR) require employees to be paid pursuant to a publicly available pay schedule that meets the requirements of CCR Section 570.5(a) to qualify as both compensation earnable and pensionable compensation that is reportable to the California Public Employees' Retirement System (CalPERS).

While the City has historically met all requirements for publication of pay schedules, action to adopt a single unified pay schedule is required by the CalPERS Circular Letter. Adoption of the unified pay schedule does not affect the salary or compensation paid to any City employee, but merely restates pay rates that have already been approved by the City Council at public meetings.

**DISCUSSION**: At this time, changes to the salary schedule are needed to reflect recent salary changes for the San Bruno Management Employees Association (SBMEA), City Manager, and Assistant City Manager job classifications. City Council approved salary increases for the SBMEA bargaining unit and the City Manager job classification during the regular City Council meeting on October 11, 2022. In addition, during closed session on October 4, 2022, City Council approved salary increases to the Assistant City Manager classification in the amounts of 6% effective the first full pay period in January 2022, and 3% effective the first full pay period in January 2023.

There are eight (8) requirements that must be met by a publicly available pay schedule for it to be used to determine pay rates per the CalPERS Circular Letter:

- 1) Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws.
- 2) Identify the position title for every employee position.
- 3) Show the pay rate as a single amount or multiple amounts within a range for each identified

position.

- 4) Indicate the time base, including, but not limited to, whether the time base is hourly, daily, biweekly, monthly, bi-monthly, or annually.
- 5) Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's website.
- 6) Indicate an effective date and date of any revisions.
- 7) Is retained by the employer and available for public inspection for not less than five years.
- 8) Does not reference another document in lieu of disclosing the pay rate.

Historically, the City of San Bruno has consistently met all requirements for publicly available pay schedules. A compliant salary schedule is retained for at least five years, posted on the City's website, and available for public inspection in the Human Resources Department.

The City's governing body (City Council) has approved every tentative agreement or side letter containing salary increases that arise from negotiations with the City's various bargaining units. Subsequently, City Council grants approval of a "single document" salary schedule as required by CalPERS. Going forward, each time there is an action to delete or add a classification or change the salary range for any position on the salary schedule, the City will include the authorization to amend the unified salary schedule when the City Council approved the change to any salary range or classification.

**FISCAL IMPACT**: There is no fiscal impact connected to this action to update and republish the publicly available Pay Schedule pursuant to the Public Employee's Retirement Law, Public Employees' Pension Reform Act of 2013, and Title 2 of the California Code of Regulations.

**ENVIRONMENTAL IMPACT**: There is no environmental impact.

**RECOMMENDATION:** Adopt Resolution Approving Publicly Available Pay Schedule Effective October 25, 2022, Pursuant to the Public Employee's Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR).

**ALTERNATIVES:** Do not adopt a publicly available pay schedule pursuant to the Public Employees' Retirement Law and risk potential penalties.

#### **ATTACHMENTS:**

- 1. Resolution
- 2. Salary Schedule
- 3. CalPERS Circular Letter 200-00320

#### **RESOLUTION NO. 2022 -**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO APPROVING PUBLICLY AVAILABLE PAY SCHEDULE EFFECTIVE OCTOBER 25, 2022, PURSUANT TO THE PUBLIC EMPLOYEES' RETIREMENT LAW (PERL), PUBLIC EMPLOYEES' PENSION REFORM ACT OF 2013 (PEPRA), AND TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS (CCR)

WHEREAS, the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR) require employee pay rates to be paid pursuant to a publicly available pay schedule that meets the requirements of CCR Section 570.5(a) to qualify as both compensation earnable and pensionable compensation that is reportable to CalPERS; and

**WHEREAS**, publicly available pay schedules must be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws; and,

**WHEREAS**, publicly available pay schedules must identify the position title for every employee position; and

**WHEREAS**, publicly available pay schedules must show the pay rate as a single amount or multiple amounts within a range for each identified position; and

**WHEREAS**, publicly available pay schedules must indicate the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually; and

**WHEREAS**, publicly available pay schedules must be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's website; and

WHEREAS, publicly available pay schedules must indicate an effective date and date of any revisions; and

**WHEREAS**, publicly available pay schedules must be retained by the employer and available for public inspection for not less than five years; and

WHEREAS, publicly available pay schedules must not reference another document in lieu of disclosing the pay rate; and

**WHEREAS**, the City of San Bruno has historically adopted publicly available pay schedules that conform with state law, and that adoption of a unified pay schedule per CalPERS Circular Letter 200-00320 will not change the salary or compensation of any City employee.

**NOW, THEREFORE, BE IT RESOLVED,** that the San Bruno City Council hereby approves the Publicly Available Pay Schedule Effective October 25, 2022 (Attachment 2) Pursuant to the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR) attached as Exhibit A.

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I hereby certify that foregoing **Resolution No. 2022 -** was introduced and adopted by the San Bruno City Council at a regular meeting on October 25, 2022, by the following vote:

AYES: Councilmembers: NOES: Councilmembers: ABSENT: Councilmembers:

Vicky Hasha Deputy City Clerk

## CITY OF SAN BRUNO MONTHLY SALARY SCHEDULE CITY COUNCIL RESOLUTION NO. 2022-xx OCTOBER 25, 2022

CITY MANAGER	Exempt (By Contract) Effective 07/01/2022						23,669
CITY ATTORNEY	Exempt (By Contract) Effective 02/07/2021						20,031
CLASSIFICATION	BARGAINING UNIT	EFFECTIVE DATE	Step 1	Step 2	Step 3	Step 4	Step 5
ACCOUNTANT	Mid-Management	01/03/22	6,955	7,320	7,705	8,109	8,535
ACCOUNTING & CUSTOMER SERVICE REP I ACCOUNTING & CUSTOMER SERVICE REP II	Miscellaneous Miscellaneous	01/03/22 01/03/22	4,705 5,409	4,952 5,693	5,212 5,992	5,486 6,307	5,774 6,638
ACCOUNTING & CUSTOMER SERVICE REP II	Miscellaneous	01/03/22	6,222	6,549	6,893	7,255	7,636
ACCOUNTING MANAGER	Mid-Management	01/03/22	9,868	10,386	10,931	11,505	12,109
ASSISTANT CITY MANAGER	Exempt (Management Benefits)	01/03/22	16,349	17,207	18,110	19,061	20,062
ASSISTANT ENGINEER ASSISTANT PLANNER	Mid-Management Mid-Management	01/03/22 01/03/22	8,066 6,686	8,489 7,037	8,935 7,406	9,404 7,795	9,898 8,204
ASSISTANT TO CITY MANAGER	Exempt (Mid-Management Benefits)	01/03/22	9,868	10,386	10,931	11,505	12,109
ASSOCIATE CIVIL ENGINEER	Mid-Management	01/03/22	9,276	9,763	10,276	10,815	11,383
ASSOCIATE PLANNER	Mid-Management	01/03/22	7,688	8,092	8,516	8,963	9,434
BUILDING INSPECTOR I	Mid-Management	01/03/22	6,853	7,212	7,591	7,990	8,409
BUILDING INSPECTOR II CATV BUSINESS MANAGER	Mid-Management Mid-Management	01/03/22 01/03/22	7,688 9,868	8,092 10,386	8,516 10,931	8,963 11,505	9,434
CATV DIRECTOR (CITYNET SERVICES DIRECTOR)	Management	01/03/22	15,567	16,384	17,244	18,149	19,102
CATV HEADEND TECHNICIAN	Miscellaneous	01/03/22	7,191	7,569	7,966	8,384	8,824
MEDIA MANAGER (FORMERLY CATV PROGRAMMING TECHNOLOGY MANAGER)	Mid-Management	01/03/22	8,071	8,495	8,941	9,410	9,904
CATV SYSTEM ENGINEER CATV TECHNICIAN I	Mid-Management Miscellaneous	01/03/22 01/03/22	9,868 6,162	10,386 6,485	10,931 6,825	11,505 7,183	12,109 7,560
CATV TECHNICIAN II	Miscellaneous	01/03/22	6,347	6,680	7,031	7,103	7,788
CATV TECHNICIAN III	Miscellaneous	01/03/22	6,538	6,881	7,242	7,622	8,022
CHIEF BUILDING OFFICIAL	Mid-Management	01/03/22	10,737	11,301	11,894	12,519	13,176
CITY CLERK	Exempt (Mid-Management Benefits)	01/03/22	9,581	10,084	10,613	11,170	11,756
CITYNET SERVICES TECHNICAL MANAGER CODE ENFORCEMENT OFFICER I	Mid-Management Police	01/03/22 01/03/22	9,216 6,401	9,700 6,737	10,209 7,091	10,745 7,463	11,309 7,855
CODE ENFORCEMENT OFFICER II	Police	01/03/22	7,041	7,411	7,091	8,209	8,640
COMMUNITY DEVELOPMENT DIRECTOR	Management	01/03/22	14,890	15,672	16,495	17,361	18,272
COMMUNITY DEVELOPMENT TECHNICIAN I	Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	6,771
COMMUNITY DEVELOPMENT TECHNICIAN II	Miscellaneous	01/03/22	6,347	6,680	7,031	7,400	7,788
COMMUNITY SERVICES DIRECTOR COMMUNITY SERVICES OFFICER	Management Police	01/03/22 01/03/22	15,265 4,782	16,066 5,033	16,909 5,297	17,797 5,575	18,731 5,868
COMMUNITY SERVICES OFFICER  COMMUNITY SERVICES SUPERINTENDENT	Mid-Management	01/03/22	9,746	10,257	10,796	11,362	11,959
COMPUTER SUPPORT TECHNICIAN	Miscellaneous	01/03/22	6,319	6,651	7,000	7,368	7,755
CUSTODIAN	Miscellaneous	01/03/22	5,029	5,293	5,571	5,864	6,172
CUSTODIAN LEAD	Miscellaneous	01/03/22	5,784	6,088	6,408	6,744	7,098
DEPUTY CITY CLERK DEPUTY DIRECTOR, COMMUNITY SERVICES	Exempt (Miscellaneous Benefits)  Mid-Management	01/03/22 01/03/22	6,062 11,233	6,380 11,822	6,715 12,443	7,068 13,096	7,439 13,784
DEPUTY PUBLIC WORKS DIR - PW Admin & Engineering	Mid-Management	01/03/22	12,702	13,369	14,071	14,810	15,784
DEPUTY PUBLIC WORKS DIR - PW Utilities & Operations	Mid-Management	01/03/22	11,557	12,164	12,802	13,475	14,182
DEPUTY PUBLIC WORKS DIR - PW Utilities & Operations with PE	Mid-Management	01/03/22	12,702	13,369	14,071	14,810	15,587
ECONOMIC DEVELOPMENT MANAGER	Exempt (Mid-Management Benefits)	01/03/22	9,868	10,386	10,931	11,505	12,109
ENGINEER TECH/PW INSPECTOR EXECUTIVE ASSISTANT	Miscellaneous Miscellaneous	01/03/22 01/03/22	7,240 5,945	7,620 6,257	8,020 6,585	8,441 6,931	8,884 7,295
EXECUTIVE ASSISTANT TO THE CITY MANAGER	Exempt (Miscellaneous Benefits)	01/03/22	6,676	7,026	7,395	7,783	8,192
FACILITIES TECH I	Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	6,771
FIELD SUPERVISOR	Mid-Management	01/03/22	7,151	7,526	7,921	8,337	8,775
FIELD SUPERVISOR - CATV FIELD SUPERVISOR - PARKS	Mid-Management Mid-Management	01/03/22 01/03/22	7,151 7,151	7,526 7,526	7,921 7,921	8,337 8,337	8,775 8,775
FINANCE DIRECTOR	Management	01/03/22	14,890	15,672	16,495	17,361	18,272
FINANCIAL SERVICES MANAGER	Mid-Management	01/03/22	9,868	10,386	10,931	11,505	12,109
FINANCIAL SERVICES SUPERVISOR	Mid-Management	01/03/22	7,976	8,394	8,835	9,299	9,787
FIRE BATTALION CHIEF	Public Safety Mid-Management	01/03/22	13,274	13,971	14,704	15,476	16,289
FIRE CAPTAIN FIRE CHIEF	Fire Management	01/03/22 01/03/22	10,294 16,314	10,834	11,403	12,002	12,632 20,020
FIRE INSPECTOR	Fire	01/03/22	7,869	8,282	8,717	9,175	
FIREFIGHTER	Fire	01/03/22	8,507	8,954	9,424	9,919	
FIREFIGHTER RECRUIT	Fire	01/03/22	7,656	-			
FACILITIES TECH II FOOD SERVICES COORDINATOR	Miscellaneous Miscellaneous	01/03/22 01/03/22	6,347	6,680	7,031 6,452	7,400	7,788
HUMAN RESOURCES DIRECTOR	Management	01/03/22	5,824 14,890	6,130 15,672	16,495	6,791 17,361	7,148 18,272
HUMAN RESOURCES MANAGER	Exempt (Mid-Management Benefits)	01/03/22	9,868	10,386	10,931	11,505	
INFORMATION TECHNOLOGY ASSOCIATE	Mid-Management	01/03/22	7,338	7,724	8,129	8,556	9,005
INFORMATION TECHNOLOGY MANAGER	Mid-Management	01/03/22	10,253	10,792	11,358	11,954	12,582
LEAD CUSTOMER SERVICE & TECH SUPPORT REP LEAD MAINTENANCE WORKER	Miscellaneous Miscellaneous	01/03/22 01/03/22	6,969 6,347	7,335 6,680	7,720 7,031	8,125 7,400	8,552 7,788
LEAD WATER SYSTEM OPERATOR - PUMPS	Miscellaneous	01/03/22	7,402	7,791	8,200	8,631	9,084
LEAD WATER SYSTEMS OPERATOR - FIELD	Miscellaneous	01/03/22	7,402	7,791	8,200	8,631	9,084
LEAD WATER SYSTEMS OPERATOR - WELLS	Miscellaneous	01/03/22	7,402	7,791	8,200	8,631	9,084
LEGAL SECRETARY	Exempt (Miscellaneous Benefits)	01/03/22	6,676	7,026	7,395	7,783	8,192
LIBRARIAN I	Miscellaneous Miscellaneous	01/03/22 01/03/22	5,788 6,656	6,092 7,005	6,412 7,373	6,749 7,760	7,103 8,167
LIBRARY ASSISTANT I	Miscellaneous	01/03/22	4,405	4,636	4,879	5,135	5,405
LIBRARY ASSISTANT II	Miscellaneous	01/03/22	5,066	5,332	5,612	5,907	6,217
LIBRARY SERVICES COORDINATOR	Miscellaneous	01/03/22	5,824	6,130	6,452	6,791	7,148
LIBRARY SERVICES MANAGER MAINTENANCE SERVICES MANAGER SERIES	Mid-Management Mid-Management	01/03/22 01/03/22	9,032 9,216	9,506 9,700	10,005 10,209	10,530	
MAINTENANCE WORKER I	Miscellaneous	01/03/22	4,797	5,049	5,314	10,745 5,593	11,309 5,887
MAINTENANCE WORKER II	Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	
MANAGEMENT ANALYST I	Mid-Management (HR - Exempt Mid-Management Benefits)	01/03/22	6,918	7,281	7,663	8,065	8,488
MANAGEMENT ANALYST II	Mid-Management (HR - Exempt Mid-Management Benefits)	01/03/22	7,953	8,371	8,810	9,273	9,760
MECHANIC I MECHANIC II	Miscellaneous Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	6,771
	HVIIAGERIALIEUUS	01/03/22	6,347	6,680	7,031	7,400	
			7.151	7 526	7 921	8 337	8 775
NUTRITION PROGRAM MANAGER PARKS AND FACILITIES MANAGER	Mid-Management Mid-Management	01/03/22 01/03/22	7,151 9,334	7,526 9,824	7,921 10,340	8,337 10,883	

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CLASSIFICATION	BARGAINING UNIT	EFFECTIVE DATE	Step 1	Step 2	Step 3	Step 4	Step 5
PARKS MAINTENANCE TECHNICIAN II	Miscellaneous	01/03/22	6,347	6,680	7,031	7,400	7,788
PLANNING AND HOUSING MANAGER	Mid-Management	01/03/22	10,058	10,586	11,141	11,726	12,342
POLICE CAPTAIN	Public Safety Mid-Management	01/03/22	14,850	15,630	16,451	17,315	18,224
POLICE CHIEF	Management	01/03/22	16,314	17,171	18,072	19,021	20,020
POLICE CLERK I	Police	01/03/22	5,133	5,403	5,687	5,986	6,300
POLICE CLERK II	Police	01/03/22	5,648	5,944	6,256	6,584	6,930
POLICE COMMUNICATIONS & RECORDS SUPERVISOR	Mid-Management	01/03/22	10,082	10,611	11,169	11,755	12,372
POLICE CORPORAL	Police	01/03/22	9,203	9,686	10,195	10,730	11,293
POLICE LIEUTENANT	Public Safety Mid-Management	01/03/22	13,076	13,762	14,485	15,245	16,045
POLICE OFFICER	Police	01/03/22	8,561	9,010	9,483	9,981	10,505
POLICE RECRUIT	Police	01/03/22	7,705	-		-	-
POLICE SERGEANT	Public Safety Mid-Management	01/03/22	10,543	11,097	11,680	12,293	12,938
PRINCIPAL CIVIL ENGINEER	Mid-Management	01/03/22	11,165	11,751	12,368	13,018	13,701
PUBLIC SAFETY DISPATCHER I	Police	01/03/22	6,695	7,047	7,417	7,806	8,216
PUBLIC SAFETY DISPATCHER II	Police	01/03/22	7,363	7,750	8,157	8,585	9,036
PUBLIC WORKS DIRECTOR	Management	01/03/22	15,567	16,384	17,244	18,149	19,102
PUMP MECHANIC I	Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	6,771
PUMP MECHANIC II	Miscellaneous	01/03/22	6,347	6,680	7,031	7,400	7,788
RECREATION SERVICES COORDINATOR	Miscellaneous	01/03/22	5,824	6,130	6,452	6,791	7,148
RECREATION SERVICES MANAGER	Mid-Management	01/03/22	8,279	8,713	9,171	9,652	10,159
RECREATION SERVICES SUPERVISOR	Mid-Management	01/03/22	7,151	7,526	7,921	8,337	8,775
SECRETARY	Miscellaneous	01/03/22	5,403	5,687	5,986	6,300	6,631
SENIOR CODE ENFORCEMENT OFFICER	Police	01/03/22	7,924	8,340	8,778	9,239	9,724
SENIOR CIVIL ENGINEER	Mid-Management	01/03/22	10,221	10,757	11,322	11,916	12,542
SENIOR PLANNER	Mid-Management	01/03/22	9,094	9,571	10,074	10,602	11,159
SYSTEMS ADMINISTRATOR	Mid-Management	01/03/22	8,228	8,660	9,115	9,593	10,097
WAREHOUSE CLERK	Miscellaneous	01/03/22	4,797	5,049	5,314	5,593	5,887
WATER FIELD SERVICE SUPERVISOR	Mid-Management	01/03/22	8,513	8,960	9,431	9,926	10,447
WATER QUALITY & PRODUCTION SUPERVISOR	Mid-Management	01/03/22	8,513	8,960	9,431	9,926	10,447
WATER QUALITY TECHNICIAN I	Miscellaneous	01/03/22	5,517	5,807	6,112	6,433	6,771
WATER QUALITY TECHNICIAN II	Miscellaneous	01/03/22	6,347	6,680	7,031	7,400	7,788
WATER SYSTEM & CONSERVATION MANAGER	Mid-Management	01/03/22	8,958	9,428	9,923	10,444	10,992
WATER SYSTEMS MANAGER	Mid-Management	01/03/22	9,790	10,304	10,845	11,415	12,014
WATER SYSTEMS OPERATOR I	Miscellaneous	01/03/22	5,629	5,924	6,235	6,562	6,907
WATER SYSTEMS OPERATOR II	Miscellaneous	01/03/22	6,437	6,775	7,131	7,505	7,899
	•						



California Public Employees' Retirement System P.O. Box 942715 | Sacramento, CA 94229-2715 888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 www.calpers.ca.gov

## **Payroll**

## Circular Letter

January 8, 2020

Circular Letter: 200-003-20 Distribution: IV, VI, X, XII, XVI

To: All CalPERS Contracted Agencies (Public Agency, Schools, and State)

Subject: Statutory and Regulatory Requirements for Publicly Available Pay Schedules

#### **Purpose**

The purpose of this Circular Letter is to inform all CalPERS Contracted Agencies of the requirements for providing CalPERS with a Publicly Available Pay Schedule in compliance with the Public Employees' Retirement Law (PERL), Public Employees' Pension Reform Act of 2013 (PEPRA), and Title 2 of the California Code of Regulations (CCR).

## **Purpose of Publicly Available Pay Schedules**

Under the PERL and PEPRA, compensation earnable and pensionable compensation are determined in accordance with amounts identified on publicly available pay schedules.

#### **Compensation Earnable**

Under Government (Gov.) Code sections 20636 and 20636.1, compensation earnable means the pay rate and special compensation of the member, as further defined by those statutes.

Pay rate for contracting agency and school members is deemed the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. Pay rate for contracting agency and school members who are not in a group or class is deemed the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to specified limitations.

Pay rate for state members is deemed the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, in payment for the member's services or for time during which the member is excused from work, as further specified by subdivision (g) of Gov. Code 20636, pursuant to publicly available pay schedules.

#### **Pensionable Compensation**

Pursuant to Gov. Code section 7522.34, pensionable compensation of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to specified limitations.

## **Requirements of Publicly Available Pay Schedules**

Subdivision (a) of CCR section 570.5 defines the requirements for a publicly available pay schedule used to determine pay rates.

Pay rates shall be limited to the amount listed on a pay schedule that must meet all the following eight (8) requirements:

- 1. Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws
- 2. Identify the position title for every employee position
- 3. Show the pay rate as a single amount or multiple amounts within a range for each identified position
- 4. Indicate the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually
- 5. Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's website
- 6. Indicate an effective date and date of any revisions
- 7. Is retained by the employer and available for public inspection for not less than five years
- 8. Does not reference another document in lieu of disclosing the pay rate

Here is an example of a compliant pay schedule, to the extent it has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws, it is posted on the employer's website, and it is retained by the employer and available for public inspection for not less than five years:

City of CalPERS Salary Schedule for Fiscal Year 17-18								
Effective as of 07/01/2017								
Classification	Rate Type	Step 1	Step 2	Step 3	Step 4	Step 5		
City Manager	Monthly	\$10,500	\$11,000	\$11,500	\$12,000	\$12,500		
City Counsel	Monthly	\$10,000	\$10,500	\$11,000	\$11,500	\$12,000		
City Clerk	Monthly	\$5,500	\$6,000	\$6,500	\$7,000	\$7,500		
Call Center Representative	Monthly	\$5,000	\$5,500	\$6,000	\$6,500	\$7,000		
Analyst	Monthly	\$5,000	\$5,500	\$6,000	\$6,500	\$7,000		
Assistant	Monthly	\$4,500	\$5,000	\$5,500	\$6,000	\$6,500		
Revised as of 09/01/2017 and adopted by the Board as of 09/15/2017								

## **Special Compensation**

Pursuant to CCR section 571 for classic members, and CCR section 571.1 for new members under PEPRA, special compensation items are defined under an exclusive list. Each special compensation item shall be reported separately from pay rate, in accordance with the criteria described in those regulations. Therefore, a publicly available pay schedule in which the special compensation items are reflected in the pay rates does not comply with CCR section 570.5.

## **Absence of Publicly Available Pay Schedule**

If an employer fails to meet the requirements of subdivision (a) of CCR section 570.5, under subdivision (b), the board may determine in its sole discretion an amount that will be considered as pay rate, taking into consideration all information it deems relevant including, but not limited to, the following:

- Documents approved by the employer's governing body in accordance with requirements of public meeting laws and maintained by the employer
- Last pay rate listed on a pay schedule that conforms to the requirements of subdivision (a) with the same employer for the position at issue
- Last pay rate for the member that is listed on a pay schedule that conforms with the requirements of subdivision (a) with the same employer for a different position
- Last pay rate for the member in a position that was held by the member and that is listed on a pay schedule that conforms to the requirements of subdivision (a) of a former CalPERS employer.

## Importance of Publicly Available Pay Schedule

Publicly available pay schedules are required by CalPERS and are a critical component to verify all members' pay rates when calculating members' retirement benefits. Maintaining a compliant publicly available pay schedule will support transparency and expedite CalPERS' review process.

Circular Letter: 200-003-20 January 8, 2020

Failure to provide CalPERS with a compliant publicly available pay schedule may result in a retirement benefit being delayed.

## Questions

It is the employer's responsibility to comply with all terms and conditions set forth in the employer's contract with CalPERS and to ensure all reportable information is compliant with the PERL, PEPRA, and the CCR.

If you have any questions or concerns, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888**-225-7377), or email MOU Review@calpers.ca.gov.

Renee Ostrander, Chief Employer Account Management Division



# City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Darcy Smith, Assistant City Manager

**SUBJECT**: Hold Public Hearing to 1) Introduce, Read by Title Only, and Waive

Further Reading of an Ordinance of the City of San Bruno Amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by Adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and Amending Chapter 12.260 (Development Impact Fee); and 2) Adopt a Resolution of the City of San Bruno Setting the Rate of the Bayhill

Specific Plan Area Development Impact Fee

#### BACKGROUND:

The purpose of this item is to hold a public hearing to introduce an Ordinance amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and amending Chapter 12.260 (Development Impact Fee). The Ordinance is provided as Attachment 1. A Resolution establishing the Bayhill Specific Plan Area Development Impact Fees is also presented for consideration. This resolution is provided as Attachment 2.

On September 28, 2021, the City Council adopted the Bayhill Specific Plan, which is a long-range planning document that establishes a regulatory framework for guiding private and public development within the Bayhill Specific Plan Planning Area over the next 20 years. At the same meeting, the City Council also approved YouTube's Phase 1 Development, which includes the construction of two new office buildings totaling approximately 440,000 square feet. The Phase 1 development also includes the realignment of Grundy Lane, the abandonment of the northern portion of Elm Avenue located directly to the north of the realigned Grundy Lane, the construction of an off-street multi-modal transportation hub, the demolition of the Lake buildings (1150 – 1250 Bayhill Drive) to provide construction staging and a parking area during the construction of Phase 1, and the approval of a Development Agreement between the City and Google/YouTube.

The Bayhill Specific Plan Area comprises approximately 92.2 acres and is generally bounded by Interstate 280 to the west and 380 to the north, El Camino Real to the east (but exclusive of the properties fronting El Camion Real), and San Bruno Avenue West to the south from Interstate 280 to Elm Avenue. The Bayhill Specific Plan area is depicted in this map below.



The Bayhill Specific Plan Implementation Chapter describes the policies and actions that are required to ensure necessary public infrastructure, amenities, and services are provided and maintained as new development occurs in the Specific Plan Area over time. Bayhill Specific Plan Table 7-1 provides cost estimates for the primary infrastructure improvements necessary to support full development of the Specific Plan at build-out and their approximate time frame or phasing for implementation. Furthermore, Specific Plan Policy 7-1b calls for the establishment of an Area Development Impact Fee (ADIF) Program to fund the specific costs associated with infrastructure projects that are identified in Table 7-1.

After the Bayhill Specific Plan was adopted by the City Council in September 2021, and in order to implement Bayhill Specific Plan Policy 7-1b, the City contracted with Economic & Planning Systems, Inc. (EPS), with technical support from Fehr & Peers, to prepare the Bayhill Specific Plan Area Development Impact Fee Nexus Study ("Nexus Study"). This Nexus Study is provided as Attachment 3. The Nexus Study is designed to provide the City with the necessary technical documentation in order to adopt a comprehensive Area Development Impact Fee ("ADIF") program.

#### DISCUSSION:

#### **Development Impact Fees**

As discussed in the Nexus Study, development impact fees are one-time charges on new development projects collected and used by the City to cover the cost of capital facilities and infrastructure needed to serve new development. The Bayhill ADIF program would be applicable to future development in the Plan Area only and will not replace or exempt development from paying other City fees, including the current City-Wide Development Impact Fee.

#### **Associated State Laws**

Assembly Bill (AB) 1600: Impact Fees are regulated by (AB) 1600, the Mitigation Fee Act (Government Code Section 66000 et seq.). The purpose of the Nexus Study is to determine the maximum allowable fees that the City can charge for facilities and infrastructure consistent with the legal requirements of Assembly Bill (AB) 1600 (Government Code Section 66000 et seq.). Fees collected under (AB) 1600 are to be collected for capital facility and infrastructure improvements only, used to fund facility needs created by new development rather than existing deficiencies, and the fees are to be based on a rational nexus between new development and the costs of the capital facilities and infrastructure needed to accommodate such development.

**Assembly Bill (AB) 602:** In September 2021, the State of California adopted (AB) 602, which created several new requirements related to development and implementation of impact fee programs. The new key provisions related to the calculations documented in the attached Nexus Study are summarized below:

- Capital Improvement Plan: (AB) 602 requires that jurisdictions adopt a capital improvement plan as part of the nexus study process. The Nexus Study relies on a Bayhill Area DIF Capital Improvement Plan to be approved by the City Council in conjunction with the Bayhill Area DIF Program. The Bayhill Area DIF Capital Improvement Plan presented in the Nexus Study is derived from the infrastructure projects/capital improvements identified in the Bayhill Specific Plan Table 7-1.
- Explanation of Level of Service and Fee Increase: (AB) 602 requires that the Nexus Study make certain findings if the fee calculation is based on a change in existing levels of service, or if it is proposing an increase in an existing fee. Since the Bayhill Area DIF will be new to the City and only apply to a Bayhill Specific Plan area, existing citywide service standards are not used directly in the fee calculation and no existing fee is being increased. As such, the attached Nexus Study is based on service standards that have been developed for, and are unique to, the Bayhill Specific Plan Area, as documented in the Bayhill Specific Plan and referenced as appropriate in the Nexus Study.
- Residential Fee to be Charged in Proportion to Unit Size: (AB) 602 requires that a Nexus Study adopted on or after July 1, 2022, must calculate a fee imposed on a housing development project proportionately to the square footage or proposed unit of the development. Further discussion regarding this matter can be found on the following page.

#### Bayhill Specific Plan Capital Improvement Plan

The Capital Improvement Plan included in the Nexus Study is derived from Table 7-1 in the Bayhill Specific Plan with some minor modifications. The Specific Plan identified these improvements as necessary to accommodate the level of service standards embodied therein or in the City's General Plan as well as address mitigations identified through the Environmental Impact Report (EIR). The list of improvements included in the Nexus Study reflect those included in the Specific Plan; however, the costs have been updated to reflect updated information provided by the Public Works Department and in consultation with transportation engineers from Fehr & Peers.

Consistent with the requirements of the Mitigation Fee Act, the Area DIF calculation excludes the cost of infrastructure improvements that are necessary to address existing deficiencies and/or serve other areas of the city. Thus, this analysis does *not* include costs that are needed to address existing deficiencies or maintenance projects—only upgrades to expand system capacity. Estimated total infrastructure hard and soft costs total \$45.6 million, in February 2022 dollars. Approximately 29 percent (\$13,010,000) of the \$45.6 million listed in the Bayhill Area DIF CIP have been allocated to new development in the Plan Area. In other words, 71 percent of the costs have been allocated to address either existing infrastructure needs and/or development elsewhere in the city. The updated Capital Improvement Plan can be found on the following page and is also included on Page 12 of the Nexus Study.

1	Estimated	Plan Area Sh	nare		
Cost Item <sup>1</sup>	Project Cost	Amount	%	Timeframe / Phasing	
Access and Connectivity Project <sup>2</sup>					
1 Signalize Traeger & San Bruno Ave. and install sidewalk on the	\$1,914,429	\$1,547,000	81%	1-5 Years	
south side of San Bruno Ave. 3,13					
2 Implement bike/ped crossing improvements at El Camino Real & Bayhill Drive/Euclid Ave. 4.12	\$1,595,357	\$397,776	25%	1-5 Years	
<sup>3</sup> Gateway and Wayfinding Signs for the Bayhill Office Park <sup>5</sup>	\$531,786	\$531,786	100%	1-5 Years	
4 Complete First/Last-mile bicycle and pedestrian improvements along Euclid and San Bruno Aves. <sup>4, 6</sup>	\$4,200,000	\$1,047,200	25%	5-10 Years	
5 Install Signal Interconnect in and around Bayhill Office Park <sup>2</sup>	\$532,318	\$234,220	44%	5-10 Years	
6 Optimize signal cycle length timing for all signalized intersections internal to and within a 1/4 mile of the Planning Area <sup>5</sup>	\$286,632	\$286,632	100%	Upon completion of each phase	
7 Implement lane reconfiguration, including striping, signage, and signal timing improvements at San Bruno Ave. off-ramp I-280 northbound <sup>11,13</sup>	\$638,143	\$280,783	44%	5-10 Years	
8 Install traffic control at Cherry Ave. and Bayhill Shopping Cntr. Drivewav <sup>7</sup>	\$744,500	\$327,580	44%	5-10 Years	
9 Implement street network improvements on San Bruno Ave. between Cherry Ave. and I-280 on-ramp (either modify medians and install bicycle lanes OR add 3 <sup>rd</sup> westbound lane on San Bruno Ave. approaching I-280 on-ramps) <sup>13</sup>	\$1,169,929	\$513,705	44%	5-20 Years	
Modify northbound approach at I-280 SB & Sneath Lane to include left-turn pocket, through lane, and free right turn <sup>13</sup>	\$3,190,715	\$1,402,851	44%	5-20 Years	
11 Implement a bicycle and pedestrian wayfinding system with directions and travel time estimates to BART, Caltrain, and Downtown <sup>5</sup>	\$212,714	\$212,714	100%	Concurrent with adjacent development	
12 Implement pedestrian crossing improvements at El Camino Real & San Bruno Ave. <sup>4, B</sup>	\$1,169,929	\$291,419	25%	Concurrent with San Bruno Ave. improvements	
13 Install westbound right-turn pocket at San Bruno and Cherry Ave. 8,13,14	\$1,595,357	\$700,894	44%	Evaluate prior to each phase	
14 Conduct public parking and curbside loading survey and use results to re-evaluate parking supply and configuration. <sup>5</sup>	\$297,800	\$297,800	100%	Every 3 years upon completion of Phase I	
15 Install marked pedestrian crossing with flashing pedestrian beacon at San Bruno Ave. and Acacia Ave.	\$531,786	\$233,986	44%	Contingent on construction of Civic Use	
Subtotal Water Supply	\$18,611,394	\$8,306,344	45%		
16 Buried water tank at Commodore Park <sup>9</sup> Stormwater	\$21,271,430	\$4,701,490	22%	1-5 Years	
17 Parallel 72-inch storm drain pipeline within 30-ft wide easement <sup>10</sup>	\$5,743,286	<u>\$0</u>	0%	Concurrent with development	
Grand Total (rounded to nearest 10,000s)	\$45,630,000	\$13,010,000	29%	·	

- [1] Excludes improvements, including within the public right-of-way, paid for by the developer as part of their project, conditions of approval, or required on-site facilities.
- [2] Transportation project cost allocations are based on trip generation numbers. Unless footnoted otherwise, the transportation project is necessitated as a result of the growth from the Specific Plan adoption and/or serves and benefits the Specific Plan area. The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth (44% of Estimated Project Cost).
- [3] Cost allocation based on growth in vehicle trips at intersection divided by total intersection trips at build-out.
- [4] The transportation project is listed in the City's Walk 'n Bike Plan (2016). The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users, with greater benefit being provided to the Bayhill Office Park due to the proximity of the improvements (25% of Estimated Project Cost).
- [5] The full costs are allocated to Planning Area growth because it is the primary beneficiary of the project.
- [6] Create a bicycle boulevard on repaved Euclid Avenue with bicycle ramps and crossing to future Huntington cycle track; add wayfinding signage, pedestrian-scale lighting, and landscaping along San Bruno Avenue between El Camino and Caltrain station; add high-visibility crosswalks, crosswalk signage, and bulbouts along San Bruno Avenue at all intersections currently missing these treatments.
- [7] Represents mid-point cost estimate of two solutions (1) a traffic signal and (2) pedestrian hybrid beacon (PHB) signal.
- [8] Cost for acquisition of a portion of private property is based on a May 2019 appraisal of a parcel near Caltrain.
- [9] The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users (25.5% of the Estimated Project Cost). The Bayhill Area Plan contribution to the larger water tank has been adjusted down (22.1%) to account for the fair share payment of the smaller water tank in the Citywide Development Impact Fee.
- [10] The developers are not required to contribute to the stormwater project because the improvement addresses an existing deficiency in the storm drainage system. A 30 feet wide easement shall be provided along the alignment of the storm drain pipeline if the existing or realigned storm drain pipe remains at 72-inches. The easement width may be reduced to 20 feet along the alignment if the developer constructs a single larger conveyance pipe at the City determined required capacity.
- [11] EIR Mitigation Measure.
- [12] Improvements assumed to be implemented by the EIR.
- [13] Project would address a near-term or long-term LOS inconsistency with the General Plan.
- [14] Only needed if the full office buildout occurs.
- \*Most cost shown in Table 7.1 of the Specific Plan have been inflated by 6.4% to reflect increases in construction costs from 2019 to 2022 based on the Engineering News Record.

#### Maximum Allowable and Recommended Area Development Impact Fees

The following table provides the maximum allowable Bayhill ADIF supported by the nexus findings and analysis of the estimated costs of required capital infrastructure and facilities contained in the Nexus Study. The maximum allowable fee is the staff recommended fee, as shown in the Resolution. As currently calculated, the fee would be applied to all new office, retail, hotel, multifamily residential projects, and accessory dwelling units over 750 square feet in area within the Plan Area. The Specific Plan does not allow for single-family home development, so there is no fee for that land use. As previously noted, the Bayhill ADIF Program will be independent and in addition to all other City development impact fees that may also be applicable to the Plan Area, including the City-Wide Development Impact Fee. This is because the Bayhill Area DIF Program does not include the costs of any infrastructure projects that are included in the other development impact fee programs.

Land Use Category	Fee Amount	/ Unit <sup>1</sup>
Office	\$6.17	per sq.ft.
Retail	•	per sq.ft.
Hotel	\$5,739	per hotel room
Multi-Family Residential		
Units equal to or less than 407 sq.ft.	\$3,524	per unit
Units between 407-2,034 sq.ft.	\$8.66	per sq.ft.
Units equal to or greater than 2,034 sq.ft.	\$17,618	per unit

<sup>[1]</sup> Fee includes a 5% administrative charge to cover cost of implementing and administerting the Bayhill Area DIF Program.

As noted within the Table above, the calculated maximum allowable Bayhill Area DIF for nonresidential development is \$6.17 per office square foot, \$32.46 per retail square foot, and \$5,739 per hotel room. For multifamily residential developments, units less than 407 square feet are charged \$3,524 per unit, units between 407 square feet and 2,034 square feet are charged \$8.66 per square foot, and units greater than 2,034 square feet will be charged \$17,618 per unit. If implemented at the maximum levels shown above, the proposed impact fee program would generate revenue to cover nearly 29%, or approximately \$13 Million, of the total capital facilities identified in the fee program. All fees are expressed in February 2022 dollars. The ordinance includes a provision to index these amounts annually based on the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index) to account for inflation.

#### **Ordinance Summary**

A summary of the Bayhill Specific Plan Area Development Impact Fee Ordinance is provided below.

**Fees Imposed:** The Bayhill Specific Plan Area Development Impact Fee is imposed upon each development project in the Bayhill Specific Plan Area as a condition of development. The fee is imposed on the following development projects:

- Non-Residential Development Projects;
- Multi-family and ADU Residential Development Projects; and,
- Mixed Residential and Non-Residential Development Projects.

Fees Due at Building Permit Issuance: Developers are required to pay the Bayhill Area Development Impact Fees prior to the issuance of the building permit. The fee for a development project will be calculated at the rates in effect as of the date the fee is paid. The City will not issue a building permit for a development project unless the fee has been paid. For purposes of this Ordinance, a Building Permit is defined as, "A full structural building permit as well as partial permit such as foundation-only permits."

Credit for Redevelopment: When a development project involves the demolition of an existing structure and its replacement with a new structure, the developer is entitled to credits against the fees. In order to qualify for a credit, the developer must demonstrate that the building was either occupied by a resident (for a residential building) or a business (for a non-residential building) during six of the twelve months prior to the date of a complete and adequate building permit application. The credit will be calculated for the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the fee is paid.

**Annual Reporting:** The City will comply with the public reporting requirements in Sections 660010 and 66006 of the California Government Code.

Appeals: The developer may submit an appeal to the City Manager if they believe the Area Development Impact Fees have been calculated incorrectly by the City or that the fee is not reasonably related to the impact of the developer's project on the Bayhill Specific Plan Area facilities. The City Manager will have 30 days to respond to the appeal after it has been filed, either by determining that the original calculated amount was correct, or by determining that a revised amount should be due. If the City Manager determines that the correct fee is less than the amount already paid to the City, the City will refund to the Developer the amount of the overpayment. If the City Manager determines that the correct fee is greater than the amount already paid to the City, the developer will pay to the City the amount of the underpayment.

**Annual Inflation Adjustment:** Each July 1, beginning July 1, 2023, the rate of the Fee will be automatically adjusted to reflect the change in the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index). This is the standard index used for this purpose.

**Development Impact Fee Administration:** Once adopted, fees will start to be collected for new development projects within the Bayhill Specific Plan area. Fees will be deposited into a specific and separate account and tracked separately from other City revenues. The fees will be expended by the City to fund improvements to public infrastructure necessary to accommodate growth consistent with the Bayhill Specific Plan and level of service requirements.

#### Modifications to Chapter 12,260 (Development Impact Fees)

The Ordinance also proposes specific amendments to Chapter 12.260 (Development Impact Fees) of the San Bruno Municipal Code. The proposed amendments, which are outlined below will ensure that Chapter 12.265 and Chapter 12.260 are consistent with one another.

**Fees Imposed:** Chapter 12.260.030 of the San Bruno Municipal Code will be amended to clarify that City-Wide Development Impact fees are imposed on the following development projects:

- Non-Residential Development Projects;
- Multi-family, Single-family, and ADU Residential Development Projects; and,
- Mixed Residential and Non-Residential Development Projects.

Fees dues at Building Permit Issuance: Chapter 12.260.050(B) of the San Bruno Municipal Code will be amended by requiring the fees for a development project to be calculated at the rates in effect as of the date the fees are paid. Currently, Chapter 12.260.050(B) specifies that fees will be calculated at the rates in effect as of the date the developer submits a complete and adequate application for a building permit. Basing the fee calculation on the date the fees are paid is consistent with the methodology used to calculated other fees in the City's Master Fee Schedule.

**Credit for Redevelopment:** Chapter 12.260.060 of the San Bruno Municipal Code will be amended to specify that each credit will be equal to the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the fees are paid. Currently, Chapter 12.260.060 specifies that each credit will be equal to the fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the developer submits a complete and adequate application for the associated building permit.

**Annual Report:** Chapter 12.260.090 of the San Bruno Municipal Code will be amended to specify that the City will comply with the public reporting requirements in Section 66001 and 66006 of the California Government Code.

**Annual Inflation Adjustment:** Chapter 12.260.120 of the San Bruno Municipal Code will be amended to specify that each July 1, the rate of the Fee will be automatically adjusted to reflect the change in the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index).

**Bayhill Specific Plan ADIF Program:** Chapter 12.260.130 of the San Bruno Municipal Code will be added to inform developers that the Bayhill Specific Plan Area Development Impact Fee Program applies separately from and in addition to the City-wide Development Impact Fees.

Development Projects Currently Approved by the City Subject to the Bayhill ADIF At the time the Bayhill ADIF Ordinance and Resolution is presented to the City Council for adoption, there is only one "pipeline" development project that has received planning approvals in the City. No other development projects have planning applications that under review by the City at this time. The pipeline project is the YouTube Phase 1 Development, which has received building permits and is currently under construction. Pursuant to the terms of the approved Development Agreement between the City and Google/YouTube, the developer is required to pre-pay the Bayhill ADIF amount at the anticipated highest fee of \$7.00 per square foot. The developer shall be entitled to credit against future payments if the adopted Bayhill ADIF per square foot rate is lower.

#### **NEXT STEPS**

If the City Council approves the introduction of the Ordinance, the second reading be scheduled as a consent calendar item at the next regular City Council meeting. The ordinance would go into effect 30 days after the second reading. If the City Council adopts the attached Resolution, the fees would go into effect 60 days after adoption of this Resolution, but only if the attached Ordinance is adopted and effective on, or prior to, that date.

#### FISCAL IMPACT:

There is no fiscal impact from the introduction of the ordinance. If adopted, the Ordinance will allow City staff to begin assessing and collecting fees on development projects located within the Bayhill Specific Plan area. Per the Nexus Study, the fees collected to support the 17 Capital Improvement Projects in the Bayhill Specific Plan area are projected to generate approximately \$13 Million of Area Development Impact Fee revenue. This represents approximately 29 percent of the total revenue required in order to implement all capital facilities listed in the nexus study. Because impact fees can only be collected to fund a portion of any particular capital improvement, they will not fully pay for all facility and infrastructure improvements. The City must therefore continue to seek other financing mechanisms, such as Federal, State, and Regional fund/grant opportunities, or allocation of General Fund revenues to fully fund these capital improvements.

**ENVIRONMENTAL IMPACT**: Adoption of this ordinance is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Ordinance is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures CEQA Guidelines Section 15061(b)(3)). The authorization for and adoption of the fee is also not a project because a project does not include the creation of a governmental funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines section 15378(b)(4).

#### **RECOMMENDATION:**

Hold Public Hearing to 1) Introduce, Read by Title Only, and Waive Further Reading of an Ordinance of the City of San Bruno Amending Article III (Zoning) of Title 12 (Land Use) of the Municipal Code by Adding Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) and Amending Chapter 12.260 (Development Impact Fee); and 2) Adopt a Resolution of the City of San Bruno Setting the Rate of the Bayhill Specific Plan Area Development Impact Fee

#### **ALTERNATIVES:**

- 1. Decline to introduce the Ordinance and Resolution; or
- 2. Provide additional direction to staff regarding the provisions of the Ordinance and Resolution.

#### ATTACHMENTS:

- 1. Ordinance Adding Municipal Code Chapter 12.265 and Amending Chapter 12.260
- 2. Resolution Setting the Rate of the Area Development Impact Fee
- 3. San Bruno Bayhill Development Impact Fee Nexus Study, September 2022

ORDINANCE NO.	
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# AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO ADDING CHAPTER 12.265 (BAYHILL SPECIFIC PLAN AREA DEVELOPMENT IMPACT FEE) AND AMENDING CHAPTER 12.260 TO TITLE 12 (LAND USE) ARTICLE III (ZONING) OF THE CITY OF SAN BRUNO MUNICIPAL CODE

#### **SECTION 1**. City Council makes the following findings:

- **A.** The Mitigation Fee Act contained in Government Code 66000 *et seq.*, permits the City to impose development impact fees on new development for the purposes of funding the public facilities necessary to serve that new development.
- **B.** The Bayhill Specific Plan was adopted by the City Council in 2021 and provides a land use and regulatory framework for redevelopment of the Bayhill Office Center and adjacent Bayhill Shopping Center for higher-intensity development.
- **C.** The Bayhill Specific Plan identified improvements necessary to serve new development at the level of service standards embodied in the Specific Plan or in the City's General Plan as well as to address mitigations identified in the Bayhill Specific Plan Environmental Impact Report.
- **D.** New development in the Bayhill Specific Plan Area will increase the demand for public facilities to serve that Area.
- **E.** A Bayhill Specific Plan Area Development Impact Fee Program can help to ensure that developers pay a "fair share" of the capital costs associated with the public facilities that are necessitated by or serve development projects in that Area.
- **F.** The Bayhill Specific Plan Area Development Impact Fee Program will not fund costs attributable to existing deficiencies in public facilities, but can include the costs attributable to the increased demand for public facilities reasonably related to a development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the General Plan.
- **G.** The Bayhill Specific Plan Area Development Impact Fee Program will be independent and in addition to all other City, County, other agency, or regional development impact fees that may also be applicable to the Specific Plan Area.
- **H.** The City Council finds that the impact fees and charges imposed by this Ordinance are necessary and reasonable to implement the goals and objectives of the City's General Plan and the Bayhill Specific Plan and are permitted by California state law.
- I. On October 25, 2022, the City Council held a duly noticed public hearing to consider the City's proposed new development fee at which time all interested persons were given an opportunity to comment.
- **SECTION 2**. Chapter 12.265 (Bayhill Specific Plan Area Development Impact Fee) is hereby added to Title 12 (Land Use) Article III (Zoning) of the San Bruno Municipal Code, to read as follows:

#### **CHAPTER 12.265**

#### **BAYHILL SPECIFIC PLAN AREA DEVELOPMENT IMPACT FEE**

#### Sections:

12.265.010	Purpose
12.265.020	Definitions
12.265.030	Fee Imposed
12.265.040	Rate
12.265.050	Payment
12.265.060	Credit for Redevelopment
12.265.070	Improvement Agreement
12.265.080	Special Fund
12.265.090	Appeals
12.235.100	Inflation Adjustment

#### 12.265.010 Purpose

The purpose of this chapter is to impose a fee upon development projects in the Bayhill Specific Plan Area to fund the costs of public facilities that are needed to serve demand created by those development projects. The amount of the fee will not include the costs attributable to demand generated by existing development.

#### 12.265.020 **Definitions**

"Building Permit" means a full structural building permit as well as partial permits such as foundation-only permits.

"Certificate of occupancy" as used in this Chapter, has the same meaning as in California Government Code section 66007(e).

"Developer" means the owner of land that is to be developed as part of a Development Project; however, Developer does not include: (a) the City and or (b) the United States or any of its agencies, the State of California or any of its agencies, the California State University, the Regents of the University of California, a county, a county office of education, a city, a school district, community college district, or any other district, a public authority, or any other political subdivision or public corporation of the State of California.

"Development Project" or "Project" means a development or redevelopment project that requires a building permit under this code.

"Fee" means a fee imposed pursuant to Section 12.265.030 of this chapter.

#### 12.265.030 Fee Imposed

- A. Except as otherwise provided in this chapter, the Bayhill Specific Plan Area Development Impact Fee is hereby imposed upon the Developer of each Development Project in the Bayhill Specific Plan Area as a condition of development. The boundaries of the Bayhill Specific Plan Area are set forth and depicted in Figure 1-2 of the Bayhill Specific Plan.
- B. The Fee is imposed on the following Development Projects:
  - 1. Non-Residential Development Projects.
    - a. New construction of gross square feet of space for non-residential uses
    - b. Construction that includes the conversion of existing non-residential building space from one land use category to a different land use category that would change from a fee category with a lower fee to a fee category with a higher fee. There is no fee if the change in use is from a higher to a lower fee Category. No credit is given if there is a negative impact fee amount.
    - c. Construction that adds additional square footage with the expansion or interior alteration of an existing non-residential structure.

For Development Projects that include multiple non-residential land use types, the fees are calculated for each specific land use based on the floor plans submitted for the building permit. The use type is determined by the primary use, not uses that are accessory to the primary use.

- 2. Residential Development Projects
  - a. New construction of one or more residential dwelling units.
  - b. Construction that includes the conversion of existing non-residential building space to one or more residential dwelling units.
  - c. Construction that adds one or more residential dwelling units with the expansion or interior alteration of an existing residential structure.
- 3. Mixed Residential and Non-Residential Development Projects.
  - a. New construction of one or more residential dwelling units, or gross square feet of space for non-residential uses.

For Development Projects that include multiple land use types, the fees are calculated for each specific land use based on the floor plans submitted for the building permit. Accessory Dwelling Units are subject to applicable Development Impact Fees as specified in Chapter 12.90.080(D).

#### 12.265.040 Rate

The rate of the Fee shall be set by the City Council by ordinance or resolution. At the time it sets a rate, the City Council shall make each of the findings required by Section 66001(a) of the California Government Code.

#### 12.265.050 Payment

- A. Except as otherwise provided in this section, the Fee required by this chapter shall be paid prior to the issuance of a building permit for the Development Project. The City shall not issue a building permit for a Development Project unless the Fee has been paid.
- B. Except as otherwise required by law, the Fee for a Development Project shall be calculated at the rates in effect as of the date the Fee is paid. A developer may pay all or a portion of the Fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis based on the ratio of the square footage, or housing units, of the phase being constructed to the entire square footage, or housing units, of the approved development, and each portion shall be paid prior to the issuance of any building permit for each phase.
- C. If applicable state law does not permit the City to require payment of the Fee for a Development Project on the schedule set forth in Subdivision A of this section, then the Fee for that Development Project shall be paid on a lump sum basis for the entire Development Project at the earliest date that the City is permitted to require such payment under state law. If payment is to be made pursuant to this subdivision, the City shall not issue a building permit to the Developer until (i) the Developer and the City enter into a contract for delayed payment as authorized by Section 66007(c) of the California Government Code; (ii) such contract is recorded in the manner set forth in that Section; and (iii) unless the Developer is specifically exempt from such requirement under state law, the Developer posts a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of the Fee.

#### 12.265.060 Credit For Existing Development

Where the Development Project involves the demolition of an existing structure and its replacement with a new structure the Developer shall be entitled to credits against the Fee required by this chapter. A credit shall not be applied for any building or part of a building unless the Developer can establish, to the satisfaction of the City, that the building or part of building was either occupied by a resident (for a residential building) or occupied by a business that conducted actual business activities (for a non-residential building) during six of the twelve months prior to the date on which a complete and adequate building permit application for the Development is submitted. The credit shall be equal to the Fee that would be charged for the development of the structure to be demolished, calculated at the rate in effect on the date the Fee is paid. In no event shall the amount of the credit reduce the Fee for the Development Project below \$0, and a credit may not be transferred to any other Development Project or used for any purpose other than offsetting Fee imposed pursuant to this chapter.

#### 12.265.070 Improvement Agreement

- A. The City may, but is not required to, enter into an Improvement Agreement with a Developer pursuant to which the Developer will construct, pursuant to City standards and requirements, one or more public improvements that would otherwise be eligible for funding with the proceeds of the Fee.
- B. The credit amount shall be the engineering and construction costs that would be reasonably incurred by the City in building the public facility, and shall not exceed the amount set forth in the Improvement Agreement.

- C. The credit will be available to the Developer only upon completion of the public improvement to the satisfaction of the City.
- D. The Improvement Agreement must be approved by the City Council and may include any additional terms as the City Council finds to be necessary or useful.

#### 12.265.080 Special Fund

- A. A Bayhill Specific Plan Area Development Impact Fee Fund shall be created.
- B. When the City receives payment of the Fee pursuant to this chapter, that payment shall be deposited in the fund established pursuant to this Section in a manner that avoids any commingling of the Fee with other revenues and funds of the City, except for temporary investments.
- C. Any interest income earned by moneys in the fund established pursuant to this Section shall also be deposited in that fund.
- D. Moneys in the Bayhill Specific Plan Area Development Impact Fee Fund shall be expended by the City to fund improvements to public infrastructure necessary to accommodate growth consistent with the Bayhill Specific Plan and level of service requirements described therein.

#### 12.265.090 Annual Reporting

For each separate account or the fund established pursuant to Section 12.265.080, the city shall comply with the public reporting requirements in Sections 66001 and 66006 of the California Government Code.

#### 12.265.100 Appeals

- A. If a Developer believes that the City incorrectly calculated the Fee applied to such Developer's Project or that the Fee is not reasonably related to the impact of the Developer's Project on the Bayhill Specific Plan Area facilities, the Developer may apply to the City Manager for an adjustment to the Fee.
- B. Any such appeal must be made in writing, and must include a proposed revised Fee amount and an explanation of why the proposed revision constitutes a correct application of the terms of this Chapter and of any resolutions or other actions of the City Council that set the rate of the Fee or that otherwise affect the Fee.
- C. The written appeal must be filed no later than the later of (i) ten days after the date on which the Fee becomes due or (ii) ten days after the date on which the Fee is paid. An appeal may be filed prior to payment of the Fee; however, full payment of the Fee, as calculated by the City shall remain a precondition to building permit issuance or the issuance of a certificate of occupancy or the conduct of a final inspection (as applicable) unless and until the City Manager makes a determination that revises the amount of the Fee.
- D. The City Manager shall have thirty days to respond to the appeal after it has been filed, either by determining that the original calculated amount was correct, or by determining that a revised amount should be due. The determination of the City Manager is the

final determination of the City. If the City Manager does not respond to the appeal within the thirty day period, the appeal shall be deemed finally rejected.

- E. If the City Manager determines that the correct Fee is less than the amount already paid to the City, the City will refund to the Developer the amount of the overpayment. If the City Manager determines that the correct Fee is greater than the amount already paid to the City, the Developer shall pay to the City the amount of the underpayment.
- F. This Section does not excuse the Developer from compliance with Chapter 9 of Division 1 of Title 7 of the California Government Code (beginning with Section 66020) with respect to any matter subject to that chapter of the Government Code.

#### 12.265.100 Inflation Adjustment

Each July 1, beginning July 1, 2023, the rate of the Fee shall be automatically adjusted to reflect the change in the California Construction Cost Index for San Francisco, California published by the Engineer News Record (or any successor to such index) during the twelve months prior to the February proceeding that July 1. However, the City Council may, by resolution, prevent any such adjustment from taking effect.

**SECTION 3.** San Bruno Municipal Code Chapter 12.260 (Development Impact Fees) is amended as shown in underline for additions and strikethrough for deletions, as follows:

12.260.010 Purpose.

The purpose of this chapter is to impose fees upon development projects that fully or partially offset the costs of public facilities that are needed to serve demand created by that development project. The amount of fees will not include the costs attributable to demand generated by existing development.

12.260.020 Definitions.

"Building permit" means a full structural building permit as well as partial permits such as foundation-only permits.

"Developer" means the owner of land that is to be developed as part of a development project; however, developer does not include: (1) the city and/or (2) with respect to any fee other than the Utilities Facilities Impact Fee, the United States or any of its agencies, the state of California or any of its agencies, the California State University, the Regents of the University of California, a county, a county office of education, a city, a school district, community college district, or any other district, a public authority, or any other political subdivision or public corporation of the state of California.

"Development project" or "project" means a development or redevelopment project that requires a building permit under this code.

"Fee" means a fee imposed pursuant to Section 12.260.030 of this chapter.

#### 12.260.030 Fees imposed.

<u>A.</u> Except as otherwise provided in this chapter, the following fees are hereby imposed upon the developer of each development project in the city as a condition of development:

Community Facilities Impact Fee;

Public Safety Facilities Impact Fee;

General Government Facilities Impact Fee;

Utilities Facilities Impact Fee;

Transportation Facilities Impact Fee.

#### B. The fee is imposed on the following Development Projects:

- 4. Non-Residential Development Projects.
  - a. New construction of gross square feet of space for non-residential uses.
  - b. Construction that includes the conversion of existing non-residential building space from one land use category to a different land use category that would change from a fee category with a lower fee to a fee category with a higher fee. There is no fee if the change in use is from a higher to a lower fee Category. No credit is given if there is a negative impact fee amount.
  - c. <u>Construction that adds additional square footage added with the expansion or interior alteration of an existing non-residential structure.</u>

For Development Projects that include multiple non-residential land use types, the fees are calculated for each specific land use based on the floor plans submitted for the building permit. The use type is determined by the primary use, not uses that are accessory to the primary use.

- 5. Residential Development Projects
  - a. New construction of one or more residential dwelling units.
  - b. Construction that includes the conversion of existing non-residential building space to one or more residential dwelling units.
  - c. Construction that adds one or more residential dwelling units with the expansion or interior alteration of an existing residential structure.
- 6. Mixed Residential and Non-Residential Development Projects.
  - a. <u>New construction of one or more residential dwelling units, or gross</u> square feet of space for non-residential uses.

For Development Projects that include multiple land use types, the fees are calculated for each specific land use based on the floor plans submitted for the building permit.

Accessory Dwelling Units are subject to applicable Development Impact Fees as specified in Chapter 12.90.080(D).

#### 12.260.040 Rate.

The rate of each fee shall be set by the city council by ordinance or resolution. At the time it sets a rate, the city council shall make each of the findings required by Section 66001(a) of the California Government Code.

#### 12.260.050 Payment.

- A. Except as otherwise provided in this section, the fees required by this article shall be paid prior to the issuance of a building permit for the development project. The city shall not issue a building permit for a development project unless the fees have been paid.
- B. The fees for a development project shall be calculated at the rates in effect as of the date the <u>fees are paid</u>developer submits a complete and adequate application for a building permit for the development project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis based on the ratio of the square footage, or housing units, of the phase being constructed to the entire square footage, or housing units, of the approved development, and each portion shall be paid prior to the issuance of any building permit for each phase.
- C. If applicable state law does not permit the city to require payment of the fees for a development project on the schedule set forth in subsection A of this section, then the fees for that development project shall be paid on a lump sum basis for the entire development project at the earliest date that the city is permitted to require such payment under state law. If payment is to be made pursuant to this section, the city shall not issue a building permit to the developer until: (1) the developer and the city enter into a contract for delayed payment as authorized by Section 66007(c) of the California Government Code; (2) such contract is recorded in the manner set forth in that section; and (3) unless the developer is specifically exempt from such requirement under state law, the developer posts a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of the fees.

#### 12.260.060 Credit for redevelopment.

Where the development project involves the demolition of an existing structure and its replacement with a new structure, the developer shall be entitled to credits against the fees required by this chapter. A credit shall not be applied for any building or part of a building unless the developer can establish, to the satisfaction of the city, that the building or part of building was either occupied by a resident (for a residential building) or occupied by a business that conducted actual business activities (for a non-residential building) during six of the twelve months prior to the date on which a complete and adequate building permit application for the development is submitted. A credit shall be calculated separately for each of the five fees imposed pursuant to Section 12.260.030 of this chapter. Each credit shall be equal to the fee that would be charged for the development of the structure to be demolished, calculated at the

rate in effect on the date the <u>fees are paid</u> developer submits a complete and adequate application for his or her building permit. In no event shall the amount of the credit reduce any fee for the development project below zero dollars, and a credit may not be transferred to any other development project in the city, applied to any of the five fees other than the fee for which it was calculated or used for any purpose other than offsetting fees imposed pursuant to this chapter. For example, a credit calculated based on the rate for the Community Facilities Impact Fee may not be applied to any fee other than the Community Facilities Impact Fee.

#### 12.260.070 Improvement agreement.

- A. The city may, but is not required to, enter into an improvement agreement with a developer pursuant to which the developer will construct, pursuant to city standards and requirements, one or more public improvements that would otherwise be eligible for funding with the proceeds of a fee.
- B. The credit amount shall be the engineering and construction costs that would be reasonably incurred by the city in building the public facility, and shall not exceed the amount set forth in the improvement agreement.
- C. The credit will be available to the developer only upon completion of the public improvement to the satisfaction of the city.
- D. The credit shall be applied first to the fee that would otherwise be eligible to fund the public improvement. For example, a credit awarded for construction of a transportation facility shall be applied first against the Transportation Facilities Impact Fee for the development project. If the amount of the credit exceeds the amount of the associated fee, the credit may be applied to other fees due against the development project pursuant to this chapter. When a credit is applied against some other fee, an amount equal to the credit shall be transferred by the city from the fund established pursuant to Section 12.260.080 of this chapter for the associated fee to the fund established pursuant to Section 12.260.080 for the fee to which the credit is applied. For example, if a fifty thousand dollar credit for a transportation facility is applied to a Public Safety Facilities Impact Fee, then fifty thousand dollars shall be transferred from the city's Transportation Facilities Impact Fee Fund to the city's Public Safety Facilities Impact Fee Fund.
- E. The improvement agreement must be approved by the city council and may include any additional terms as the city council finds to be necessary or useful. (Ord. 1869 § 3, 2019)

12.260.080 Special funds.

A. The following accounts or funds shall be established:

Community Facilities Impact Fee Fund;

Public Safety Facilities Impact Fee Fund;

General Government Facilities Impact Fee Fund;

Utilities Facilities Impact Fee Fund;

Transportation Facilities Impact Fee Fund.

- B. When the city receives payment of a fee pursuant to this chapter, that payment shall be deposited in the appropriate account or fund established pursuant to this section in a manner that avoids any commingling of the fees with other revenues and funds of the city, except for temporary investments.
- C. Any interest income earned by moneys in an account or fund established pursuant to this section shall also be deposited in that account or fund.
- D. Moneys in the Community Facilities Impact Fee Fund shall be expended by the city only for parkland acquisition and library, park and recreation improvements.
- E. Moneys in the Public Safety Facilities Impact Fee Fund shall be expended by the city only for police and fire capital facilities and equipment.
- F. Moneys in the General Government Facilities Impact Fee Fund shall be expended by the city only for community facilities and equipment necessary to maintain general government functions.
- G. Moneys in the Utilities Facilities Impact Fee Fund shall be expended by the city only for water, sewer, storm drainage, and telecommunications infrastructure and equipment.
- H. Moneys in the Transportation Facilities Impact Fee Fund shall be expended by the city only for transportation infrastructure.

#### 12.260.090 Annual Report

For each separate account or fund established pursuant to Section 12.260.080 of this chapter, the city shall comply with the public reporting requirements in Sections 66001 and 66006 of the California Government Code.

A. For each separate account or fund established pursuant to Section 12.260.080 of this chapter, the city shall, within one hundred eighty days after the last day of each fiscal year, make available to the public the information required by Section 66006(b)(1) of the California Government Code. The information may be included in the city's Consolidated Annual Financial Report or any other report prepared by the city, and need not be isolated in a separate document.

R	The city	<i>t</i> council	shall rev	iew the	_informa	ition mad	a availal	ale to the	nublic n	ureus	nt to
Subsec	tion A of	this sect	tion at th	e nevt r	equilarly	schedule	d nublic	meeting	not less	than	fifteen
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C. Notice of the time and place of the meeting where the city council will review the
information, including the address where the information may be reviewed, shall be mailed, at
least fifteen days prior to the meeting, to any interested party who files a written request with the
city clerk for mailed notice of the meeting. Any written request for mailed notices shall be valid

for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year.

D. For the fifth fiscal year following the first deposit into the accounts or funds established pursuant to Section <u>12.260.080</u> of this chapter, and every five years thereafter, the city council shall, in connection with its review conducted pursuant to subsection C of this section, make each of the findings required by Section 66001(d) of the California <u>Government Code</u>. (Ord. 1869 § 3, 2019)

#### 12.260.100 Appeals.

- A. If a developer believes that one or more of the fees applied to his or her project have been calculated incorrectly by the city, he or she may apply to the city manager for an adjustment to those fees.
- B. Any such appeal must be made in writing, and must include a proposed revised fee amount and an explanation of why the proposed revision constitutes a correct application of the terms of this chapter and of any resolutions or other actions of the city council that set the rate of the fees or that otherwise affect the fees.
- C. The written appeal must be filed no later than the later of: (1) ten days after the date on which the fee becomes due; or (2) ten days after the date on which the fee is paid. An appeal may be filed prior to payment of a fee; however, full payment of the fee, as calculated by the city shall remain a precondition to issuance of a certificate of occupancy or the conduct of a final inspection (as applicable) unless and until the city manager makes a determination that revises the amount of the fees.
- D. The city manager shall have thirty days to respond to the appeal after it had been filed, either by determining that the original calculated amount was correct, or by determining that a revised amount should be due. The determination of the city manager is the final determination of the city. If the city manager does not respond to the appeal within the thirty day period, the appeal shall be deemed finally rejected.
- E. If the city manager determines that the correct fee is less than the amount already paid to the city, the city will refund to the developer the amount of the overpayment. If the city manager determines that the correct fee is greater than the amount already paid to the city, the developer shall pay to the city the amount of the underpayment.
- F. The appeals process set forth in this section applies solely to the case where the developer believes that the city has incorrectly applied the fees according to the city's ordinances, resolutions, city council actions, and regulations. It does not apply to any claim that any such approved ordinances, resolutions, actions or regulations exceed the authority of the city or violate state or federal law. This section does not excuse the developer from compliance with Chapter 9 of Division 1 of Title 7 of the California Government Code (beginning with Section 66020) with respect to any matter subject to that chapter of the Government Code.

12.260.110 Regulations.

The city manager may promulgate such interpretive regulations for the application of this chapter as he or she finds necessary or useful.

12.260.120 Inflation adjustment.

Each July 1, beginning July 1, 2020, each rate <u>automatically</u> adjusted to reflect the change in the <u>California</u> Construction Cost Index <u>for San Francisco</u>, <u>California</u> published by the Engineer News Record (or any successor to such index) during the twelve months prior to the February proceeding that July 1. However, the City Council may, by resolution, prevent any <u>such adjustment from taking effect</u>. However, any such adjustment shall take effect only if approved by the city council, by resolution, and shall take effect no earlier than sixty days following such approval.

12.260.130 Bayhill specific plan area development impact fee program.

The Bayhill Specific Plan Area Development Impact Fee Program applies separately from and in addition to the Fees set forth in this Chapter. The Bayhill Specific Plan Area Development Impact Fee Program is set forth in Chapter 12.265 of Title 12 (Land Use) and applies to all Development Projects within the Bayhill Specific Plan Area.

SECTION 4. Adoption of this ordinance is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Ordinance is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures CEQA Guidelines Section 15061(b)(3)). The authorization for and adoption of the fee is also not a project because a project does not include the creation of a governmental funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines section 15378(b)(4); the proposed ordinance commits no fees to any specific project.

**SECTION 6.** If any section, subsection, sentence, clause or phrase of the ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**SECTION 7.** The City Manager is hereby authorized and directed to take other actions on behalf of City, which are not expressly and specifically reserved for the City Council, to implement and effectuate this ordinance. The City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting this ordinance. The City Clerk is directed to resolve any numbering conflicts accordingly.

**SECTION 8.** The City Clerk shall publish this ordinance in accordance with applicable law.

		This ordinance shall take effect thirty (30) days from the date be published according to law.
ATTEST:		Rico E. Medina, Mayor
Vicky S. Ha	sha, Deputy City Clerk	
		APPROVED AS TO FORM:
		Trisha A. Ortiz, Interim City Attorney Richard Watson Gershon Law
		000
	was introduced at a reg	that foregoing <b>Ordinance No.</b> Jular meeting of the San Bruno City Council on  y the San Bruno City Council at a regular meeting on  _, by the following vote:
AYES:	Councilmembers:	
NOES:	Councilmembers:	
RECUSED:	Councilmembers:	
ABSENT:	Councilmembers:	
		Vicky S. Hasha, Deputy City Clerk

#### RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO SETTING THE RATE OF THE BAYHILL SPECIFIC PLAN AREA DEVELOPMENT IMPACT FEE PURSUANT TO SECTION 12.265.040 OF THE SAN BRUNO MUNICIPAL CODE

- **WHEREAS**, Section 12.265.040 of the Municipal Code authorizes the City Council, by ordinance or resolution, to set the rates for the Bayhill Specific Plan Area Development Impact Fee ('Fee") listed in Section 12.265.030 of the Municipal Code; and
- **WHEREAS**, new development projects in the Bayhill Specific Plan Area ("Area") will attract new residents and employees to that Area, generating an increased demand for public facilities to serve the Area; and
- **WHEREAS**, the City desires to charge the Fee on development projects within the Bayhill Specific Plan Area in order to ensure that new development contributes its fair share to public facilities, consistent with the City's standards; and
- **WHEREAS**, the City Council has engaged Economic & Planning Systems, Inc. ("EPS") to study the level of a Fee necessary to cover the capital costs of public facilities needed to serve anticipated development in the Bayhill Specific Plan Area; and
- **WHEREAS**, a report of EPS, entitled "Bayhill Specific Plan Area Development Impact Fee Nexus Report," dated September 2022 (the "Report"), documents the results of EPS's study; and
- **WHEREAS**, the Report is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by reference; and
- **WHEREAS**, the Report substantiates a methodology that will charge each new development project only for the costs necessary to mitigate the impacts to the Bayhill Specific Plan Area expected to be caused by that development project; and
- **WHEREAS**, there is a reasonable relationship between the Fee and the development projects on which the Fee will be imposed because the Fee will only fund costs necessitated by each new development project; and
- **WHEREAS**, the Fee will not exceed the estimated reasonable cost of providing the land and/or facilities for which the Fee is imposed; and
- **WHEREAS**, the Fee will not be levied, collected or imposed for general revenue purposes, but is levied specifically to fund facilities of the types set forth in the Report; and
- **WHEREAS**, the Report identifies the City's existing level of service, identifies the proposed new level of service, and includes an explanation of why the new level of service is appropriate; and
- **WHEREAS**, the Report includes information that supports the City's actions, as required by subdivision (a) of Section 66001 of the Government Code; and

**WHEREAS**, the Report includes a Bayhill Specific Plan Area Development Impact Fee Capital Improvement Plan ("Bayhill DIF CIP"), which serves as the capital improvement plan pursuant to subdivision (a)(6) of Section 66016.5 of the Government Code for the Fee; and

**WHEREAS,** on Octber 25, 2022, the City Council held a duly noticed public hearing regarding the Fee.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of San Bruno as follows:

- 1. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.
- 2. The Report has been considered by the City Council, and the Council finds and determines that the Report complies with California Government Code section 66000 *et seq.*, and is consistent with the General Plan, and hereby approves and adopts the Report.
- 3. The City Council hereby approves and adopts the Bayhill DIF CIP included in the Report.
- 4. The Fee applies to all development projects in the Bayhill Specific Plan Area. The boundaries of the Bayhill Specific Plan Area are depicted in the map attached hereto, and incorporated herein by reference, as "Exhibit A."
- 5. The Fee shall be imposed at the rates set forth in Exhibit "B" to this Resolution, attached hereto and incorporated herein by reference. The Fee shall be administered as set forth in Chapter 12.265 of the Municipal Code and in this Resolution. The Fee rates set forth in "Exhibit B" shall be incorporated into the Master Fee Schedule.
  - 6. Based on the Report, the City Council finds that:
    - a. The purpose of the Fee is as set forth in the Report.
    - b. The Fee shall be used to fund public facilities as identified in the Report and as set forth in Section 12.265.080 of the San Bruno Municipal Code.
    - c. For the reasons set forth in the Report, there is a reasonable relationship between each Fee's use and the type of development project on which the Fee is imposed.
    - d. For the reasons set forth in the Report, there is a reasonable relationship between the need for the public facilities for which a Fee is imposed and the type of development project on which the fee is imposed.
- 7. Adoption of this resolution is found to be categorically exempt from the California Environmental Quality Act because the adoption of this Ordinance is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fee may have a significant effect on the

environment, in that this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures CEQA Guidelines Section 15061(b)(3)).

8. This Resolution shall take effect sixty (60) days after adoption of this Resolution, but only if Ordinance is adopted and effective on, or prior to, that date. In accordance with Government Code Section 66019, the updated Fee, set forth in "Exhibit B," shall be in full force and effect 60 days after the adoption of this Resolution and shall be published or posted as required by law.			
		oOo	
	was adopted by the Sa	that foregoing <b>Resolution No. 2022 -</b> an Bruno City Council at a regular meeting on, by the following vote:	
AYES:	Councilmembers:		
NOES:	Councilmembers:		
RECUSED:	Councilmembers:		
ABSENT:	Councilmembers:		
ATTEST:			
Vicky Hasha Deputy City (			

Exhibit A: Bayhill Specific Plan Area Map

Exhibit B: Bayhill Specific Plan Area Development Impact Fee Rates

**EXHIBIT A: Bayhill Specific Plan Area Map** 



**EXHIBIT B: Bayhill Specific Plan Area Development Impact Fee Rates** 

Land Use Category	Fee Amount	Fee Amount / Unit <sup>1</sup>		
Office Retail	\$32.46	per sq.ft.		
Hotel Multi-Family Residential		per hotel room		
Units equal to or less than 407 sq.ft. Units between 407-2,034 sq.ft. Units equal to or greater than 2,034 sq.ft.		per unit per sq.ft. per unit		

<sup>[1]</sup> Fee includes a 5% administrative charge to cover cost of implementing and administerting the Bayhill Area DIF Program.

# **Public Review Draft Nexus Report**

# Bayhill Specific Plan Area Development Impact Fee

The Economics of Land Use



#### **Prepared for:**

City of San Bruno

#### Prepared by:

Economic & Planning Systems, Inc. (EPS) and Fehr & Peers

Economic & Planning Systems, Inc. 1330 Broadway Suite 450 Oakland, CA 94612 510 841 9190 tel

September 2022

Oakland Sacramento Denver Los Angeles

EPS #211107

204 of 243

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# 1. Introduction and Fee Overview

#### Introduction

This Nexus Report provides analysis and technical documentation to support adoption of a development impact fee program ("DIF Program") for the Bayhill Specific Plan Area ("Plan Area") in the City of San Bruno ("City"). Development impact fees are one-time charges on new development collected and used by the City to cover the cost of capital facilities and improvements required to serve real estate development. The Bayhill Specific Plan Area DIF Program ("Bayhill Area DIF") would be applicable to future development in the Plan Area only and will not replace or exempt development from paying other City fees.

This Nexus Report has been prepared by Economic & Planning Systems, Inc. ("EPS") with support from transportation consultants Fehr & Peers and input from City staff. It provides a legal basis for requiring payment of a Bayhill Area DIF consistent with Mitigation Fee Act (AB 1600/ Government Code Section 66000 et seq.) and subsequent related legislation. The DIF Program can be adopted by City Council with an enabling City Ordinance and with fee amounts to be set by Resolution. This analysis calculates a maximum justifiable fee program and the City may elect to charge less than the fee amounts cited within this Report. If adopted, the Program will be effective 60 days following the City Council's final action on the ordinance authorizing collection of the fee.

Adopted by the San Bruno City Council in 2021, the Bayhill Specific Plan provides a land use and regulatory framework for redevelopment of Bayhill Office Center and adjacent Bayhill Shopping Center for higher-intensity development. This Bayhill Area DIF is based on the land use program and level of service standards and requirements described in the Bayhill Specific Plan (and supporting environmental documents) as well as current estimates of the infrastructure and improvement costs needed to accommodate these land uses and standards.

### **Legal Context**

This Nexus Report is designed to provide the necessary technical analysis to support the Bayhill Area DIF to be established by a City Ordinance and for the amounts to be set by Resolution. The Mitigation Fee Act allows the City to adopt, by resolution, the Bayhill Area DIF consistent with the supporting technical analysis and findings provided in this Nexus Report. The Resolution approach to setting the fee allows periodic adjustments of the fee amount that may be necessary over time, without amending the enabling ordinance.

Impact fee revenues are used to cover the cost of constructing capital and infrastructure improvements required to serve new development and growth in the area in which they apply. As such, impact fees must be based on a reasonable nexus, or connection, between new development and the need for specific capital facilities and improvements. Impact fee revenue cannot be used to cover operation and maintenance costs of these or any other facilities and infrastructure. In addition, impact fee revenue cannot be collected or used to cover the cost of preexisting infrastructure needs or deficiencies.

In establishing, increasing, or imposing a fee as a condition for approval of a development project, Government Code sections 66001(a) and (b) require a local agency to:

- 1. Identify the purpose of the fee.
- 2. Identify how the fee is to be used, including identification of public facilities to be financed.
- 3. Determine how a reasonable relationship exists between the fee use and the type of development project on which the fee is being imposed.
- 4. Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.
- 5. Show there is a reasonable relationship between the amount of the fee and the cost of the public facility.

In September 2021, the State of California adopted Assembly Bill (AB) 602, which includes new Government Code section 66016.5 and created several new requirements related to development and implementation of impact fee programs. The new key provisions related to the calculations documented in this Nexus Report are summarized below.

- Capital Improvement Plan: (AB) 602 requires that jurisdictions adopt a capital improvement plan as part of the nexus report process. This adoption can occur at the same time as the fee ordinance adoption through a resolution. Accordingly, this Nexus Report relies on a Bayhill Area DIF Capital Improvement Plan ("Bayhill Area DIF CIP") to be approved by the City Council in conjunction with the Bayhill Area DIF Program. The Bayhill Area DIF CIP presented in this Nexus Report is derived from the capital improvements identified in the Bayhill Specific Plan.
- **Explanation of Level of Service and Fee Increase**: (AB) 602 requires that the nexus report make certain findings if the fee calculation is based on a change in existing levels of service, or if it is proposing an increase in an existing fee. Since the Bayhill Area DIF will be new to the City and only apply to a defined area, existing citywide service standards are not used directly in the fee calculation and no existing fee is being increased. As such, this Nexus Report is based on service standards that have been developed for, and are unique to, the Plan Area, as documented in the Bayhill Specific Plan and referenced as appropriate in this document.
- Residential Fee to be Charged in Proportion to Unit Size: (AB) 602 requires that a
  nexus report adopted on or after July 1, 2022 must "calculate a fee imposed on a housing
  development project proportionately to the square footage of proposed units of the
  development." However, a jurisdiction does not need to charge residential fees by square
  footage if it makes all the following findings:
  - An explanation as to why square footage is not appropriate metric to calculate fees imposed on housing development project.
  - An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden posed by the development.
  - That other policies in the fee structure support smaller developments, or otherwise ensure that smaller developments are not charged disproportionate fees.

Since this Nexus Report will be adopted after July 1, 2022, the multifamily residential DIF is calculated in proportion to unit size subject to a maximum and minimum per unit amount. Units that are larger than the square footage that corresponds to the maximum fee amount will pay the maximum per unit fee. Likewise, units that are smaller than the square footage that applies to the minimum fee amount will pay the per unit minimum fee. As described in this Nexus Report, this approach ensures there is a reasonable relationship between the fee amount and the relative impact on the facilities included in the Bayhill Area DIF CIP.

All State statutory requirements have been followed in establishing this Bayhill Area DIF, as documented in subsequent chapters. **Chapter 4** summarizes the specific findings that explain or demonstrate the appropriate nexus. If the Bayhill Area DIF is adopted, this Nexus Report and the technical information it contains should be maintained and reviewed periodically by the City to ensure its accuracy and to enable adequate programming of funding sources. To the extent that infrastructure requirements, costs, and development potential change over time, the Bayhill Area DIF will need to be updated. In that regard, Government Code section 66016.5 also requires nexus studies to be updated at least every eight years. Further information on administration considerations is provided in **Chapter 5**.

### **Bayhill Area DIF Levels**

**Table 1** shows the proposed Bayhill Area DIF supported by the nexus findings and analysis contained in this Nexus Report. As currently calculated, the fee would be applied to all new office, retail, hotel, and multifamily residential projects within the Plan Area. The Specific Plan does not include single-family development. The Bayhill Area DIF Program will be independent and in addition to all other City, County, other agency, or regional development impact fees that may also be applicable to the Plan Area. This is because the Bayhill Area DIF Program does not include the costs of any infrastructure projects that are included in the other development impact fee programs.

Table 1. Proposed Bayhill Area Development Impact Fee

Land Use Category	Fee Amount / Unit <sup>1</sup>		
Office Retail Hotel Multi-Family Residential	\$32.46	per sq.ft. per sq.ft. per hotel room	
Units equal to or less than 407 sq.ft. Units between 407-2,034 sq.ft. Units equal to or greater than 2,034 sq.ft.		per unit per sq.ft. per unit	

<sup>[1]</sup> Fee includes a 5% administrative charge to cover cost of implementing and administerting the Bayhill Area DIF Program.

As shown, the calculated Bayhill Area DIF for nonresidential development is determined to be \$6.17 per office square foot, \$32.46 per retail square foot, and \$5,739 per hotel room. For multifamily residential developments, units between 407 and 2,034 square feet are charged \$8.66 per square foot. Units equal to or less than 407 square feet will be charged \$3,524 per unit and units equal to or greater than 2,034 square feet will be charged \$17,618 per unit. All fees are expressed in FY 2021–22 dollars. It is expected that the City will escalate these amounts annually based on a construction cost index to account for inflation. The amounts shown include a five percent (5%) surcharge to cover program implementation and administration costs, consistent with other Mitigation Fee Act program administrative costs in many other California jurisdictions. <sup>1</sup>

The Bayhill Area DIF has been calculated to cover the cost of infrastructure needed to serve build-out of the Bayhill Specific Plan Area, as specified in more detail in **Chapter 3** and the **Appendix** and consistent with the Bayhill Area DIF CIP. In particular, the Bayhill Area DIF covers the following infrastructure items:

- On-site and off-site roadway facilities (i.e., traffic signals, traffic safety devices, street improvements, etc.)
- On-site and off-site bicycle, pedestrian, and other active transportation facilities
- Potable Water Facilities
- Water Facilities

<sup>&</sup>lt;sup>1</sup> The 5 percent administration cost is designed to cover expenses for preparing subsequent updates to the impact fee technical report as well as the required reporting, auditing, collection, and other annual administrative costs involved in overseeing the program. Development impact fee programs throughout California have applied similar administrative charges. A portion of the cost to prepare this Nexus Report has been paid directly by the developers in the Specific Plan Area outside of this fee.

# 2. Area DIF Land Use Assumptions

This chapter documents the land use and development assumptions used to calculate the Bayhill Area DIF. The assumptions are based on information from the Bayhill Specific Plan and additional input from City staff.

### Site Description and Current Land Uses

The Bayhill Specific Plan Area covers approximately 92.2 acres in the City of San Bruno and contains the areas commonly known as the Bayhill Office Center and Bayhill Shopping Center. As shown in **Figure 1**, the Plan Area is bounded by Interstate 280 to the west, Interstate 380 to the north, properties fronting El Camino Real to the east, and San Bruno Avenue West to the south. In addition to immediate freeway access, the site is proximate to BART and Caltrain stations, providing convenient access to the Bay Area's major job and housing markets, as well as being a short distance from San Francisco International Airport (SFO).

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CO

Figure 1. Bayhill Area Boundaries

Source: City of San Bruno, Bayhill Specific Plan

The Bayhill Specific Plan Area is currently home to major regional and national tenants and property owners, including YouTube, Walmart.com, The Police Credit Union, a Marriott Courtyard hotel as well as a successful retail center anchored by Mollie Stone's Market and CVS Pharmacy. Most of the office properties were developed in the 1970s and early 1980s in a typical suburban business park format with abundant surface parking. The Bayhill Shopping Center was constructed in the early 1970s, and the Marriott Courtyard in 1986 (both with surface parking).

As of 2019, the Plan Area contained approximately 1.8 million square feet of development, of which approximately 1.6 million square feet was office space. The median floor area ratio (FAR) of the Plan Area was slightly lower than 0.5, typical for an older suburban office park with surface parking. While the street, utilities, and related infrastructure serving the Plan Area accommodate the existing urban form, these facilities were not designed to meet the evolving needs of a growing workforce or significant new development.

## **Approved Land Uses and Growth Potential**

Approved in 2021 after a four-year planning process, the Bayhill Specific Plan will guide land use and development within the Plan Area over the next 20 years. The planning effort was initiated in the context of YouTube's desire to expand its headquarters in San Bruno and accommodate Plan Area's emerging role as a major employment center. As such, the Specific Plan allows for significant intensification of office uses as well as expansion of retail and hotel uses. It also provides opportunities for residential development in designated locations. The current level of public infrastructure (e.g., transportation facilities and utilities) is not sufficient to serve the development envisioned in the Specific Plan.

#### **Potential New Growth Calculations**

**Table 2** summarizes the maximum development allowed under the Bayhill Specific Plan by land use. It is important to note that the Specific Plan provides for land use flexibility by classifying two types of potential net new growth as shown in the table:

- Designated New Development: Designated new development refers to potential net new
  development that is allocated to specific land uses (i.e., office, retail, hotel, and multifamily
  residential). For this category, the Specific Plan designates 2.25 million square feet to office,
  5,000 square feet to retail, 5,000 square feet to hotel, and 573 units to multifamily
  residential.
- 2. Unallocated New Development: Unallocated new development refers to the potential net new development that is not allocated to specific land uses to provide future flexibility. 180,700 square feet is unallocated to specific parcels and may be allocated among hotel, retail, and/or office uses for expansion in the future.<sup>2</sup> Hotel and retail uses are the priority, and allocation would be on a first-come, first-serve basis. Some property owners and/or developers will need to make trade-offs about the amount of office, commercial, retail, and/or housing development they can pursue.

<sup>&</sup>lt;sup>2</sup> Unallocated development square footage may not be allocated towards residential uses.

**Table 2. Maximum Allowable Development** 

Land Use Category	Existing Development	Designated Net New Development
Office (sq.ft.)	1,557,847	2,245,029
Retail (sq.ft.)	121,846	5,000
Hotel (sq.ft.)	79,152	5,000
Multi-Family (units)	0	573
Unallocated Net New Developme	180,718	

<sup>[1]</sup> Based on Bayhill Specific Plan Table 2-2: Potential Development Allocation. The amounts are likely to include some demolition of existing space. The fee calculation is based on net new square feet.

To account for land uses with greater per-square-foot environmental impacts (i.e., retail and hotel uses), the Specific Plan also establishes per-square-foot equivalency ratios for retail and hotel uses that equate their impacts relative to regional office use per the Specific Plan's Final Environmental Impact Report. The equivalency ratios, which are included in Table 3, will only be used when a developer is seeking use of the 180,700 square feet of unallocated square footage. In addition, the Plan Area allows for residential uses along San Bruno Avenue on the entire site at 801-851 Traeger Avenue and on 3.95 acres of the 1111 Bayhill Drive site. When residential square footage is developed on these parcels, the office development square footage permitted on these parcels shall be reduced using the conversion factors also shown in **Table 3**. The reduction of office square footage per residential unit development is based on zoning allocations but ensure equivalent impacts.

**Table 3. Office Reduction and Equivalent Conversion Factors** 

#### **Non-Residential Development**

Equivalency ratios of unallocated square footage for non-residential uses.

Land Use	Conversion Factor per Sq.Ft. of Office	Sq.Ft. Equivalent per 1,000 Sq.Ft. of Office <sup>2</sup>
Office	1.00	1,000 sq.ft.
Retail	0.19	190 sq.ft.
Hotel	0.64	640 sq.ft.

#### **Residential Development**

Square feet reduction of office allocation per new unit of residential development.

Location	% Distribution of Residential Development <sup>1</sup>	Sq.Ft. of Office per Multi-Family Unit <sup>3</sup>
801-851 Traeger	26%	1,267 sq.ft.
1111 Bayhill	<u>74%</u>	1,454 sq.ft.
Weighted Average	100%	1,406 sq.ft.

<sup>[1]</sup> Weighted average is based on the relative amount of multi-family development allowed on the sites with 125,000 square feet allocated to 801-851 Traeger and 363,900 square feet allocated to 1111 Bayhill.

Based on these equivalency factors, **Table 4** shows the maximum allowable buildout by land use if 100 percent of the 180,700 square feet of unallocated potential development is allocated to each land use category. As shown, if all 181,700 square feet of unallocated square development was allocated to office use, there would be a net increase of 2.43 million square feet of office space, a 156 percent increase over existing development. If the unallocated square footage was entirely allocated to retail or hotel, the plan could accommodate close to 40,000 new square feet of retail development (32 percent increase over existing) and approximately 120,000 new square feet of hotel development (152 percent increase over existing). Totals by land use category are not additive since the unallocated square footage will be allocated by a 'first come, first serve basis.'

<sup>[2]</sup> Based on Bayhill Specific Plan Table 2-4 and Bayhill Specific Plan Final Environmental Impact Report.

<sup>[3]</sup> Based on Bayhill Specific Plan Table 2-3 and based on zoning allocations.

Table 4. Development Potential by Land Use (at Buildout)

Item	Formula	Office (sq.ft.)	Retail (sq.ft.)	Hotel (sq.ft.)	Multi-Family (units)⁵
Existing Development	а	1,557,847	121,846	79,152	0
Designated Net New Development <sup>1</sup>	b	2,245,029	5,000	5,000	573
Unallocated Development Calculations					
Unallocated Net New Development <sup>2</sup>	С		180,718	sq.ft.	
Conversion Factors <sup>3</sup>	d	1.00	0.19	0.64	N/A
Hypothetical 100% Allocation per Land Use	e = c * d	180,718	34,336	115,660	N/A
Maximum Net New Development	f = b + e	2,425,747	39,336	120,660	573
Maximum Total Development <sup>4</sup>	g = a + b + e	3,983,594	161,182	199,812	573
Maximum Percent Increase	h = f/a	156%	32%	152%	N/A

<sup>[1]</sup> Based on Bayhill Specific Plan Table 2-2. The amounts are likely to include some demolition of existing space. The fee calculation is based on net new square feet.

### Area DIF Development Assumptions

While the Bayhill Specific Plan designates the maximum allowable development that can occur within the Plan Area, actual development may be less and will unfold over many years. To be conservative, the impact fee calculation assumes that the amount of development that is likely to occur in the Plan Area will be less than the maximum allowable. In particular, the fee calculation assumes that approximately 90 percent of the total allowable development will be achieved within the Plan Area. This assumption is designed to ensure that adequate fee revenue is generated to cover the full cost of required infrastructure needed to serve new development in the Plan Area. A 90 percent build-out assumption is typical for area impact fee programs where future development is expected to occur over a long-time horizon.

<sup>[2]</sup> The unallocated 180,718 square feet of regional office development per Table 2-2 within the Bayhill Specific Plan shall be allocated on a first come, first served basis, with priority given to retail and hotel expansion when feasible.

<sup>[3]</sup> See Table 3. Conversion factors can also be found in the Bayhill Specific Plan Table 2-4 and Bayhill Specific Plan Final Environmental Impact Report.

<sup>[4]</sup> Totals by land use category are not additive since unallocated square feet are allocated on a 'first come first serve' basis up to a 180,718 cap.

<sup>[5]</sup> A housing overlay is included at 801-851 Traeger Ave. and the western portion of 1111 Bayhill Dr. along the San Bruno Ave. frontage. When residential units are proposed on these parcels, the Office development square footage permitted shall be reduced using the amount shown in Bayhill Specific Plan Table 2-3 based on zoning allocations. A mixed-use overlay zone is included at 851 and 891 Cherry Ave.

**Table 5** derives the amount of development used in the Area DIF calculation. This is done by converting all the land uses to equivalent office square footage using the inverse of the conversion factors shown in **Table 3**. For example, if 0.19 square feet of retail is one square foot of office, 5.26 square feet of office is equivalent to one square feet of retail. If 0.64 square feet of hotel is equivalent to one square foot of office is equivalent to one square foot of hotel.

Table 5. Amount of Development Assumed in DIF Calculation

Estimating Factor	Source / Assumption	Formula	Amount <sup>1</sup>
Allowable Bayhill Development (Expressed in	n Office Equivalent Sq.Ft.)		
Office (sq.ft.)	See Table 2	а	2,245,029
Retail (office equivalent sq.ft.) <sup>2</sup>	See Table 2, Table 3, Footnote 2	b = 5.26 * 5,000	26,300
Hotel (office equivalent sq.ft.) <sup>3</sup>	See Table 2, Table 3, Footnote 3	c = 1.56 * 5,000	7,800
Unallocated (sq.ft.)	See Table 2	d	<u>180,718</u>
Total		e = a + b + c + d	2,459,847
Growth Assumed in Fee Calculation (sq.ft.) <sup>4</sup>	EPS & City Staff Assumption	= 90% * e	2,213,862

<sup>[1]</sup> Based on allowable and designated retail and hotel development shown in Table 2 and represents the inverse of conversion factors as shown in Table 3.

As shown, out of the total allowable development of approximately 2.46 million office equivalent square feet, the Area DIF assumes approximately 2.21 million square feet will occur over the 20-year buildout period (i.e., 90 percent of the total allowed). It is important to note that the Area DIF calculation will be recalibrated periodically and at least once every eight (8) years per AB-602 to account for actual development (which may be more or less than 90 percent of the potential on parcels developed), evolving infrastructure needs, updated cost estimates, and other factors.

<sup>[2]</sup> One sq.ft. of retail = 5.26 sq.ft. of office

<sup>[3]</sup> One sq.ft. of hotel = 1.56 sq.ft. of office

<sup>[4]</sup> As a conservative assumption, the Area DIF is calculated based on 90% of the maximum development allowed in the Bayhill Specific Plan. This assumption accounts for the probability that not all parcels will be developed to their maximum potential.

# 3. Area DIF Infrastructure and Cost Assumptions

This chapter describes the public infrastructure and improvements that are needed in part or in full to accommodate the growth and corresponding level of service standards described in the Bayhill Specific Plan. It also estimates the one-time costs needed to deliver these infrastructure improvements and their allocation between existing and new development. Consistent with the requirements of the Mitigation Fee Act, ongoing maintenance costs and the portion of infrastructure costs needed to address existing deficiencies are excluded from the Area DIF calculation.

# Area DIF Capital Improvement Plan

The capital improvements included in the DIF Program are derived from Table 7-1 in the Bayhill Specific Plan with minor modifications. The Specific Plan identified these improvements as necessary to accommodate the level of service standards embodied therein or in the City's General Plan as well as address mitigations identified through the Environmental Impact Report (EIR). While the list of projects included in the DIF Program reflect those included in the Specific Plan, costs have been updated to reflect updated information provided by City staff and in consultation with transportation engineers Fehr & Peers. In addition, EPS escalated the costs to reflect 2022 dollars as appropriate, given that most of the Specific Plan estimates reflect 2019 data.<sup>3</sup>

**Table 6** summarizes the costs defined in the Bayhill Area DIF CIP proposed to be approved by the City Council in conjunction with the Bayhill Area DIF Program. Estimated infrastructure hard and soft costs total \$45.6 million. The infrastructure analysis underlying the fee program concluded that all the improvements listed in **Table 6** will be needed regardless of the mix of land uses that comprise the 180,700 square feet of "unallocated" development. For example, as shown in **Table 4**, 180,700 square feet of office development is expected to generate a similar demand for infrastructure and associated costs as 34,300 square feet of new retail space or 115,700 square feet of hotel space. In addition, the analysis finds that the Plan Area is likely to require a similar level of infrastructure even if less than a full build-out occurs as these projects would be needed to make the planning area viable to development. Specifically, a level of development representing approximately 90 percent of the maximum allowable is expected to require the full array of transportation, utilities and related infrastructure defined in the Bayhill Area DIF CIP.

<sup>&</sup>lt;sup>3</sup> Most costs shown in Table 7.1 of the Specific Plan have been inflated by 6.4 percent to reflect increases in construction costs from 2019 to 2022, based on data from the Engineering News Record.

<sup>&</sup>lt;sup>4</sup> All improvements except for item #13 and #15 on the CIP list would be needed even if residential uses were developed.

Table 6. Bayhill Area DIF Capital Improvements Plan

- · · · 1	Estimated	Plan Area Sh	nare		
Cost Item <sup>1</sup>	Project Cost	Amount	%	Timeframe / Phasing	
Access and Connectivity Project <sup>2</sup>					
Signalize Traeger & San Bruno Ave. and install sidewalk on the south side of San Bruno Ave. 3.13	\$1,914,429	\$1,547,000	81%	1-5 Years	
2 Implement bike/ped crossing improvements at El Camino Real & Bayhill Drive/Euclid Ave. 4,12	\$1,595,357	\$397,776	25%	1-5 Years	
<sup>3</sup> Gateway and Wayfinding Signs for the Bayhill Office Park <sup>5</sup>	\$531,786	\$531,786	100%	1-5 Years	
4 Complete First/Last-mile bicycle and pedestrian improvements along Euclid and San Bruno Aves. 4.6	\$4,200,000	\$1,047,200	25%	5-10 Years	
<sup>5</sup> Install Signal Interconnect in and around Bayhill Office Park <sup>2</sup>	\$532,318	\$234,220	44%	5-10 Years	
6 Optimize signal cycle length timing for all signalized intersections internal to and within a 1/4 mile of the Planning Area <sup>5</sup>	\$286,632	\$286,632	100%	Upon completion of each phase	
7 Implement lane reconfiguration, including striping, signage, and signal timing improvements at San Bruno Ave. off-ramp I-280 northbound <sup>11,13</sup>	\$638,143	\$280,783	44%	5-10 Years	
8 Install traffic control at Cherry Ave. and Bayhill Shopping Cntr. Driveway <sup>7</sup>	\$744,500	\$327,580	44%	5-10 Years	
Implement street network improvements on San Bruno Ave. between Cherry Ave. and I-280 on-ramp (either modify medians and install bicycle lanes OR add 3 <sup>rd</sup> westbound lane on San Bruno	\$1,169,929	\$513,705	44%	5-20 Years	
Ave. approaching I-280 on-ramps) <sup>13</sup> 10 Modify northbound approach at I-280 SB & Sneath Lane to include	\$3,190,715	\$1,402,851	44%	5-20 Years	
left-turn pocket, through lane, and free right turn <sup>13</sup>	<b>6040 744</b>	<b>#040.744</b>	1000/	Consument with adiacont	
11 Implement a bicycle and pedestrian wayfinding system with directions and travel time estimates to BART, Caltrain, and Downtown <sup>5</sup>	\$212,714	\$212,714	100%	Concurrent with adjacent development	
12 Implement pedestrian crossing improvements at El Camino Real & San Bruno Ave. 4. B	\$1,169,929	\$291,419	25%	Concurrent with San Bruno Ave. improvements	
13 Install westbound right-turn pocket at San Bruno and Cherry Ave. 8.13,14	\$1,595,357	\$700,894	44%	Evaluate prior to each phase	
14 Conduct public parking and curbside loading survey and use results to re-evaluate parking supply and configuration. <sup>5</sup>	\$297,800	\$297,800	100%	Every 3 years upon completion of Phase I	
15 Install marked pedestrian crossing with flashing pedestrian beacon at San Bruno Ave. and Acacia Ave.	<u>\$531,786</u>	\$233,986	44%	Contingent on construction of Civic Use	
Subtotal Water Supply	\$18,611,394	\$8,306,344	45%		
16 Buried water tank at Commodore Park <sup>9</sup> Stormwater	\$21,271,430	\$4,701,490	22%	1-5 Years	
17 Parallel 72-inch storm drain pipeline within 30-ft wide easement <sup>10</sup>	\$5,743,286	<u>\$0</u>	0%	Concurrent with development	
Grand Total (rounded to nearest 10,000s)	\$45,630,000	\$13,010,000	29%	•	

<sup>[1]</sup> Excludes improvements, including within the public right-of-way, paid for by the developer as part of their project, conditions of approval, or required on-site facilities.

<sup>[2]</sup> Transportation project cost allocations are based on trip generation numbers. Unless footnoted otherwise, the transportation project is necessitated as a result of the growth from the Specific Plan adoption and/or serves and benefits the Specific Plan area. The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth (44% of Estimated Project Cost).

<sup>[3]</sup> Cost allocation based on growth in vehicle trips at intersection divided by total intersection trips at build-out.

<sup>[4]</sup> The transportation project is listed in the City's Walk 'n Bike Plan (2016). The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users, with greater benefit being provided to the Bayhill Office Park due to the proximity of the improvements (25% of Estimated Project Cost).

<sup>[5]</sup> The full costs are allocated to Planning Area growth because it is the primary beneficiary of the project.

<sup>[6]</sup> Create a bicycle boulevard on repaved Euclid Avenue with bicycle ramps and crossing to future Huntington cycle track; add wayfinding signage, pedestrian-scale lighting, and landscaping along San Bruno Avenue between El Camino and Caltrain station; add high-visibility crosswalks, crosswalk signage, and bulbouts along San Bruno Avenue at all intersections currently missing these treatments.

<sup>[7]</sup> Represents mid-point cost estimate of two solutions (1) a traffic signal and (2) pedestrian hybrid beacon (PHB) signal.

<sup>[8]</sup> Cost for acquisition of a portion of private property is based on a May 2019 appraisal of a parcel near Caltrain.

<sup>[9]</sup> The Bayhill Specific Plan Share is its share relative to the projected Citywide new development growth and existing City users (25.5% of the Estimated Project Cost). The Bayhill Area Plan contribution to the larger water tank has been adjusted down (22.1%) to account for the fair share payment of the smaller water tank in the Citywide Development Impact Fee.

<sup>[10]</sup> The developers are not required to contribute to the stormwater project because the improvement addresses an existing deficiency in the storm drainage system. A 30 feet wide easement shall be provided along the alignment of the storm drain pipeline if the existing or realigned storm drain pipe remains at 72-inches. The easement width may be reduced to 20 feet along the alignment if the developer constructs a single larger conveyance pipe at the City determined required capacity.

<sup>[11]</sup> EIR Mitigation Measure.

<sup>[12]</sup> Improvements assumed to be implemented by the EIR.

<sup>[13]</sup> Project would address a near-term or long-term LOS inconsistency with the General Plan.

<sup>[14]</sup> Only needed if the full office buildout occurs.

<sup>\*</sup>Most cost shown in Table 7.1 of the Specific Plan have been inflated by 6.4% to reflect increases in construction costs from 2019 to 2022 based on the Engineering News Record.

## Infrastructure Cost Allocation

Consistent with the requirements of the Mitigation Fee Act, the Area DIF calculation excludes the cost of infrastructure improvements that are necessary to address existing deficiencies and/or serve other areas of the city. Thus, this analysis does not include costs that are needed to address existing deficiencies or maintenance projects—only upgrades to expand system capacity. In addition, there is no overlap between the projects within the citywide development impact fee program and the Bayhill DIF Program, except for the water tank (see **Table 9**, later in this report) which accounts for and excludes fee revenue expected to be collected from the citywide program.

Based on the infrastructure analysis conducted for the Specific Plan and updated for this Nexus Report, approximately 29 percent of the total infrastructure cost listed in the Bayhill Area DIF CIP have been allocated to new development in the Plan Area (see **Table 6** above). In other words, 71 percent of the costs have been allocated to address either existing infrastructure needs and/or development elsewhere in the city. This means that of the total \$45.6 million in required infrastructure improvements listed in the Bayhill Area DIF CIP, approximately \$13 million are included in the Area DIF calculation. During the course of the fee program, the City will need to identify other revenue sources for the remaining \$32.6 million in costs associated with the Bay Area DIF CIP.

This analysis utilizes the following approaches to arrive at the infrastructure cost allocation described above.

- Transportation Improvements Needed to Address Citywide Growth. Some of the transportation improvements included in the Bayhill Area DIF CIP are needed to accommodate citywide growth but are not necessary to serve the existing land uses. In other words, these improvements are not needed to address existing deficiencies in the transportation network and are thus allocated between growth in Bayhill and growth elsewhere in the city. As shown in Table 7, the Bayhill share represents approximately 44 percent of the city total based on this allocation. See Appendix for more information.
- Transportation Improvements that Benefit Both New and Existing Land Uses. Some of the transportation improvements included in the Bayhill Area DIF CIP benefit both existing land uses and new development citywide. For these improvements, the DIF calculation *first* allocates total cost between existing city land uses and projected development. This results in an approximately 12.5 percent allocation to new development. However, as shown in Table 7, the DIF calculation double the cost allocation to 25 percent for new Bayhill development to account for the fact that the improvements in this category disproportionately benefit the Plan Area. For example, the bicycle/ pedestrian crossing improvements at the intersection of El Camino Real and Bayhill Drive/Euclid Avenue are also included in the City's 2016 Walk 'n Bike Plan (2016) and thus benefit both new and existing development citywide. However, given the proximity of these improvements to Bayhill, the Plan Area will disproportionately benefit.

<sup>&</sup>lt;sup>5</sup> This report and associated multifamily fee also account for the possibility that the 363 units of multifamily units would be constructed instead of office at 801-851 Traeger and 1111 Bayhill. An additional 210 residential units could be constructed at the Bayhill Shopping Center which would not require a reduction of office development.

**Table 7. Transportation Improvement Cost Allocation** 

Cost Allocation Factor	Formula	Trips (All Modes)
San Bruno Trips by Scenario		
2013 No Project	= <i>a</i>	237,224
2013 + Bayhill Specific Plan (Max Office)	= b	276,714
2040 No Project	= <i>c</i>	289,826
2040 + Bayhill Specific Plan (Max Office)	= d	331,077
Cost allocation assuming no existing deficiency		
Total Increase in City-wide Trips with Specific Plan	e = d - a	93,853
Total city-wide trips attributable to Specific Plan (2040)	f = d - c	41,250
% increase in City-wide trips attributable to Specific Plan (2040)	g = f/e	44.0%
Cost allocation assuming existing deficiency	_	_
Total Increase in City-wide Trips with Specific Plan	e = d - a	93,853
New growth share of total trips in 2040	h = e/d	28%
Bayhill share of allocation to new growth	i = h * g	12.5%
Increase to account for projects with disproportionate Bayhill benefit	2 x i =	24.9%

• Transportation Improvements for Traeger/San Bruno Avenue Signalization. This analysis assumes that the primary beneficiaries of a new signal for the Traeger and San Bruno Avenue intersection will be land uses within the Bayhill Specific Plan. There is some need for a signal with existing uses in the Plan Area and trips originating from the Plan Area, but growth with the Bayhill Specific Plan significantly increases the need and justifies signalization of this intersection. In other words, this signal would not be needed "but for" the land uses in the Plan Area. Accordingly, a cost allocation of approximately 81 percent to the Area DIF reflects the relative share attributable to growth in trips from new Bayhill development, as shown in Table 8. See Appendix for more information.

Table 8. Cost Allocation for Traeger/San Bruno Avenue Signalization

Factor	Formula	Amount <sup>1</sup>
Current vehicles exceeding signal warrant at intersection	а	57
Estimated growth in vehicles @ buildout	b	240
Growth in need for a signal as a % of total need	c = b / (a + b)	81%

<sup>[1]</sup> Based on data for PM peak trips to account for the most traffic congestion during a day and calculations provided by Fehr & Peers.

• Cost Allocation for Buried Water Tank at Commodore Park. The Bayhill Specific Plan calls out a need for a new water tank at Commodore Park that will provide potable water to the Specific Plan Area. Given that this water tank will serve new development elsewhere in the city, only 22 percent of the cost has been allocated to the Area DIF, as shown in **Table 9**. This allocation also accounts for payments by new Bayhill Plan Area development required as part of the existing citywide DIF, which includes collection of funds for a share of the water tank.

**Table 9. Cost Allocation for Water Tank at Commodore Park** 

Item	Formula	Amount
Water Tank Cost	а	\$20,000,000
BayHill Specific Plan Share		
Million gallons of demand from future buildout + Bayhill Specific Plan	b	1.65
Million gallons of demand from Bayhill Specific Plan buildout	С	0.42
Bayhill Specific Planl Area Impact Fee Share	d = c/b	25.5%
Bayhill Development Fair Share Payment	e = d * a	\$5,090,909
Estimated Bayhill Payment from Citywide Development Impact Fee	f	\$670,526
Amount Included in Bayhill Area DIF		
Total	g = e - f	\$4,420,383
% of Total	h = g / a	22%

Source: City of San Bruno; EPS

• Improvement Cost Allocated Entirely to Bayhill Development. A small number of the improvements included in the Bayhill Area DIF CIP are assumed to be entirely attributable to new development in the Plan Area. In other words, these improvements would not be developed, but for the development of the Plan Area. Accordingly, 100 percent of the cost for these projects are included in the Area DIF.

# 4. Area DIF Nexus Findings and Calculations

This chapter documents the Bayhill Area DIF calculation and methodology as well as required nexus findings. Specifically, it demonstrates the "nexus" between new development in Bayhill and the infrastructure improvements needed to serve it, as required under Government Code Section 66000 (also referred to as AB1600/the Mitigation Fee Act).

# **Nexus Findings**

The development impact fee to be collected for all new development in the Plan Area is calculated based on the proportionate share of demand for facilities identified in the Bayhill Area DIF CIP that these land uses represent. With this context, the following findings are made regarding the Fee Program, with each finding supported by the information and analyses in this Nexus Report.

#### **Purpose of Fee**

The purpose of the Fee Program is to provide a funding mechanism to help the City provide adequate infrastructure as described in the Bayhill Area DIF CIP to support development authorized by the Bayhill Specific Plan.

#### **Use of Fees**

The fee charged to office, retail/commercial, hotel, and residential development will be used to fund improvements to infrastructure necessary to accommodate growth consistent with the Bayhill Specific Plan and level of service requirements described therein. Infrastructure improvements include transportation improvements and water infrastructure. The list of eligible capital projects and costs are summarized in **Chapter 3**.

#### Relationship between Use of Fees and Type of Development

New development in the Plan Area will require additional infrastructure capacity consistent with the level of public services and facilities defined in the Bayhill Specific Plan. Improvements to existing infrastructure are not currently required by existing land uses in the area, although they will benefit from it. Accordingly, some of the costs for the infrastructure program have been allocated to existing development both in the Plan Area and the citywide.

#### Relationship between Need for Facility and Type of Project

The specific infrastructure improvements identified in this study are designed to accommodate the needs of new development. In addition, the infrastructure is based on the land use and urban design goals as well as level of service standards and associated facilities described in the Bayhill Specific Plan.

# Relationship between Amount of Fees and Cost of or Portion of Facility Attributed to Development on which Fee is Imposed

The fee levels calculated in this Nexus Report are based on a fair share cost allocation to new Plan Area development. Approximately 29 percent of the costs are allocated to the planned development, with the remainder attributable to existing land uses (both in the Plan Area and elsewhere in the city) as well as citywide growth. New development in the Plan Area will also be responsible for paying all applicable City fees.<sup>6</sup>

For multifamily development, the Bayhill DIF is calculated in proportion to square footage up to a maximum but no less than minimum amount. The per square foot residential fee amount is based on estimated person per household, with larger units assumed to accommodate more people and thus having a larger impact on the need for Bayhill DIF CIP facilities (and vice versa for smaller units).

## Area DIF Calculations

The following steps describe the methodology for calculating the Bayhill Area DIF. The specific calculations are shown in **Table 10**:

- 1. Determine the total amount of new development in the Plan Area that will require or benefit from infrastructure improvements. In this case, the Bayhill Area DIF applies to approximately 2.21 million square feet of office equivalent space, representing approximately 90 percent of permissible growth under the Bayhill Specific Plan (discussed in **Chapter 2**).
- 2. Determine the infrastructure needed to serve new development in the Plan Area and associated costs attributable to this development (as shown in **Table 6**).
- 3. Divide the allocated cost by square feet of new "office equivalent" development in the Plan Area to determine the justifiable fee per square foot of development.
- 4. Determine land use equivalency factors between office and other allowable development in the Plan Area (i.e., commercial/retail, hotel, and multifamily residential). This is derived by dividing the amount of proposed office square footage that could be developed instead of each other land use (as detailed in the Specific Plan and shown in **Table 3**).
- 5. Use the office equivalency factors to convert the office fee to an equivalent fee per unit of measurement for other allowable development (i.e., square feet for commercial/retail, room for hotel, and dwelling unit for multifamily residential).

<sup>&</sup>lt;sup>7</sup>Typical standard for overcrowding is more than one person per room (excluding bathrooms) resulting in a 5 persons per household assumption for a three-bedroom unit (one person per bedroom plus two additional for living area and kitchen).

Table 10. Bayhill Area DIF Calculations (FY\$21-22)

Estimating Factor	Source / Assumption	Formula	Amount <sup>1</sup>
Allowable Bayhill Development (expressed in office equivalent sq. ft.)	See Table 5	а	2,459,847
Growth Assumed in Fee Calculation <sup>1</sup>	See Table 5	b	2,213,862
Bayhill Area DIF CIP Cost	See Table 6	С	\$13,010,000
Office Equivalent Fee per Square Foot Raw Fee Admin Charge @ 5% Total Office Equivalent Fee / Sq. Ft.		d = c/b e = d * 5% f = d + e	\$5.88 <u>\$0.29</u> \$6.17
Fee By Land Use Category Amount / Office Sq. Ft. Amount / Retail Sq. Ft. Amount / Hotel Room <sup>2</sup> Amount / Multi-Family Unit <sup>3</sup>	<ul> <li>h = 5.26 / office sq. ft. (see Table 3)</li> <li>i = 930 / office sq. ft. (see Table 3)</li> <li>j = 1,406 / office sq.ft. (see Table 3)</li> </ul>	= f = f * h = f * i = f * j	\$6.17 \$32.46 \$5,739 \$8,210

<sup>[1]</sup> As a conservative assumption, the Area DIF is calculated based on 90% of the maximum development allowed in the Bayhill Specific Plan. This assumption accounts for the probability that not all parcels will be developed to their maximum potential

### **Derivation of Residential DIF per Square Foot**

Consistent with the requirements of (AB) 602, the multifamily fee derived in **Table 10** and described above is used as a basis for calculating a DIF that scales in proportion to unit square feet. The calculations are shown in **Table 11** and based on data and assumptions related to average people per unit and square footage of multifamily housing in San Bruno. The analysis assumes that the impact of residential development on the Bayhill DIF CIP will scale by persons per household and that larger units can accommodate more people. The methodological steps and assumptions are further summarized below:

- **Average Person per Household**: According to the US Census, multifamily units in San Bruno average 2.33 person per household. This number of people per household is assumed to correspond to the average multifamily fee of \$8,210 per unit calculated in **Table 10** above.
- Average Square Feet for Multifamily Units: Based on data provided by City staff on new multifamily housing projects in the city (see Appendix), the weighted average unit size is 948 square feet. The unit size corresponds to 2.33 persons per household and the average multifamily fee of \$8,210, as shown in Table 10. This fee amount, in turn, equates to \$8.66 per square foot, a rate used to calculate the multifamily DIF that is proportional to size.
- Maximum Persons per Household. Based on data provided by City staff (see Appendix), there are no examples of four bedroom or larger multifamily units being developed in the city. As a result, this analysis calculates a maximum multifamily DIF based on the number of people that can be accommodated in a three (3) bedroom household. Specifically, the highest multifamily DIF is calculated based on five (5.0) people per unit which corresponds to

<sup>[2]</sup> Based on the conversion factor for hotel shown in Table 3 and an average of 595 square feet per hotel room. (i.e. 595 \* 1/0.64)

<sup>[3]</sup> Residential fee is adjusted to remove item 13 from the CIP list as the capital improvement will not be required if residential development replaces office development.

- a typical over-crowding standard (it is unlikely that any multifamily unit will accommodate more than 5 people).<sup>7</sup>
- **Minimum Persons per Household Size**. This analysis assumes that the minimum multifamily fee will correspond to a one person per household. Since all units will have a minimum of one person, there is no nexus for calculating a fee that corresponds to less than one person.
- Maximum and Minimum Multifamily Fee per Unit: This analysis scales the maximum and minimum fee per unit based on a high of 5 people to a low of 1 person per household. The actual fee amount is scaled up or down based on the proportional increase or decrease from the average fee (i.e., \$8,210 per unit) and corresponding average unit size and persons per household (948 square feet and 2.33 people, respectively). For example, the maximum fee of \$17,618 per unit corresponds to 5 people per household, representing a 2.17-fold increase from the average household size (5.0 ÷ 2.3 = 2.17). Likewise, the minimum fee of \$3,524 corresponds to 1 person per household, or 43.5% percent of the average household size (1 ÷ 2.3 = 43.5%).8

Table 11. Bayhill Area Multifamily Fee per Sq.Ft. Conversion (FY\$21-22)

Item	Amount	Formula	Source / Assumption
Persons / Household			
Average <sup>1</sup>	2.33 persons/hh	а	US Census
Minimum	1.00 persons/hh	b	EPS
Maximum <sup>2</sup>	5.00 persons/hh	С	EPS
Unit Size (sq.ft.)			
Average <sup>3</sup>	948 sq.ft.	d	City of San Bruno
Units equal or less than <sup>4</sup>	407 sq.ft.	e = d * (b / a)	see Footnote 4
Units equal or greater than <sup>5</sup>	2,034 sq.ft.	f = d * (c/a)	see Footnote 5
Fee / Unit			
Average <sup>6</sup>	\$8,210 per unit	g	see Table 7
Minimum <sup>7</sup>	\$3,524 per unit	h = g * (b / a)	
Maximum <sup>2,8</sup>	\$17,618 per unit	i = g * (c / a)	
Fee/ Unit (units equal to or less than 407 sq.ft.)	\$3,524 per unit		see "h"
Fee / Sq.Ft. (units between 407-2,034 sq.ft.)	\$8.66 per sq.ft.	= g / d	
Fee/ Unit (units equal to or greater than 2,034 sq.ft.)	\$17,618 per unit		see "i"

<sup>[1]</sup> Based on US Census data for San Bruno on average number of people per multi-family unit in the City.

<sup>[2]</sup> Assumes largest units will be three bedrooms, consistent with recent market trends. A typical standard for overcrowding is more than one person per room, based on the Census Bureau's definition of "room," which excludes bathrooms, porches, balconies, foyers, halls, or half-rooms.

<sup>[3]</sup> Represents weighted average square feet per unit of recently built and proposed multi-family projects in San Bruno, as provided by City staff.

<sup>[4]</sup> Adjusts the average unit size in the City based on the ratio of minimum persons per household to the average persons per household.

<sup>[5]</sup> Adjusts the average unit size in the City based on the ratio of maximum persons per household to the average persons per household.

<sup>[6]</sup> Based on the average development impact fee per unit as calculated in Table 7.

<sup>[7]</sup> Adjusts the average fee based on the ratio of minimum persons per household to the average persons per household.

<sup>[8]</sup> Adjusts the average fee based on the ratio of maximum persons per household to the average persons per household.

<sup>&</sup>lt;sup>7</sup>Typical standard for overcrowding is more than one person per room (excluding bathrooms) resulting in a 5 persons per household assumption for a three-bedroom unit (one person per bedroom plus two additional for living area and kitchen).

<sup>&</sup>lt;sup>8</sup>There is no reliable data on how the number of people scale with the square footage of multifamily units.

Based on the foregoing analysis, EPS provides the following findings to address the requirements of (AB) 602.

# An explanation as to why square footage is not appropriate metric to calculate fees imposed on housing development project.

Square footage <u>is</u> an appropriate metric for calculating the Bayhill Area DIF for multifamily development for units up to a maximum and above a minimum size. The multifamily DIF per square foot is based on the average square footage and persons per household for multifamily units in San Bruno. Since it is very unlikely that future multifamily projects in the Bayhill Specific Plan will include units with more than three bedrooms, it is equally unlikely that there will be more than five people per unit. Thus, the maximum multifamily fee is calculated to correspond to a five-person household. Likewise, the minimum multifamily DIF corresponds to a one-person household (there is no nexus for fee less than the amount attributable to one person per unit).

# An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden posed by the development.

All multifamily units that are larger than the maximum square footage that corresponds to a fiveperson household are charged the maximum allowable DIF. Since it is highly unlikely that these units will accommodate more than five people, a flat rate is appropriate. Likewise, all multifamily units that are below the minimum square footage corresponding to a one-person household are charged the minimum DIF. Since a one-person household represents that minimum impact, no units, no matter how small, should be charged less.

# That other policies in the fee structure support smaller developments, or otherwise ensure that smaller developments are not charged disproportionate fees.

Since Bayhill Specific Plan does not allow single-family development, it supports residential development patterns that are likely to be more compact and less land intensive on a per unit basis. The incentive for smaller units is further reinforced by the per square foot DIF structure described above.

# 5. Area DIF Implementation and Administration

The proposed Bayhill Area DIF Program is anticipated to be adopted by the City of San Bruno through an enabling ordinance establishing and authorizing collection of the fees. The City will also adopt a resolution approving this Nexus Report, along with the Bayhill Capital Improvement Plan, and establishing the fee amounts. This chapter describes the additional implementation and administrative issues and procedures to be addressed in the DIF Program.

## **Credits and Reimbursement**

Given that the Plan Area consists of multiple property owners and existing uses, the timing of future development, and thus generation of fee revenue, will depend on economics and a variety of other factors. Some existing property owners may wish to continue to operate in their existing buildings for the foreseeable future while others may seek to pursue development in the short-term. For property owners who are interested in pursuing development in the near term, funding for any required up-front infrastructure may need to come from sources other than the Plan Area Development Impact Fee.

Give the potential delay between when needed infrastructure must be built and enough impact fee revenues are collected from new development, it is common for impact fee programs to include developer credits and reimbursements. Credits and reimbursements usually apply when alternative funding is required to pay for infrastructure facilities that are needed prior to availability of sufficient fee revenue. This alternative funding may be in the form of land-secured bonds, developer equity, or another form of private funding. However, there is typically no adjustment to a Fee Program based on the method by which a private party funds or constructs eligible project costs.

#### **Fee Credits**

Impact fee ordinances frequently allow for fee credits if a developer provides or funds a particular facility or improvement that would have otherwise been funded in whole or in part by another source (e.g., an area DIF). For example, the City may elect to offer a fee credit to developers who provide transportation related improvements, consistent with those specified in the current Bayhill Area DIF program. The fee credit is usually equal to the most current cost estimate of the infrastructure item (as defined by annual cost review or other recent evaluation of cost) regardless of the actual cost to construct. It is recommended that the City's Ordinance allow for fee credits under specific terms.

#### **Fee Reimbursements**

Fee reimbursements are typically considered for developers who contribute more funding and/or build and dedicate infrastructure items that exceed their proportional obligation, especially if the

infrastructure funded is a priority project. Such reimbursements should be provided over time as fee revenue from other development becomes available but should not compromise or delay implementation of other priority capital projects.

The total amount of reimbursement for completed infrastructure will be based on the most current cost estimate of the infrastructure item (as defined by annual cost review or other recent evaluation of cost) or the actual costs incurred for eligible hard costs based on a properly bid construction contract. Soft costs can be calculated as a fixed percentage of hard costs. All hard costs will be subject to verification by the City and actual costs expended will go through a true-up process upon completion of the infrastructure component.

# Periodic Program Updates and Fee Adjustments

This fee program is based on the estimated Bayhill Specific Plan land use program as well as the associated capital facility needs identified as of 2022. It is recognized that these individual infrastructure projects and associated costs may change over time due to economic, technological, or other factors. The amount of residential development may also deviate from the projections assumed in the Fee Program. These factors may affect the appropriate fee level needed to cover necessary infrastructure. Accordingly, the Nexus Report should be updated periodically to account for these potential changes. Ideally this would occur every five (5) years (and no later than every eight years per (AB) 602), however, more frequent updates may be necessary to account for major changes.

The Development Impact Fee Ordinance should also allow for an automatic annual adjustment to account for inflation. This adjustment will be based on data from the Engineering News Record Construction Cost Index.

# APPENDIX:

Detailed Data and Assumptions for Bayhill Area DIF

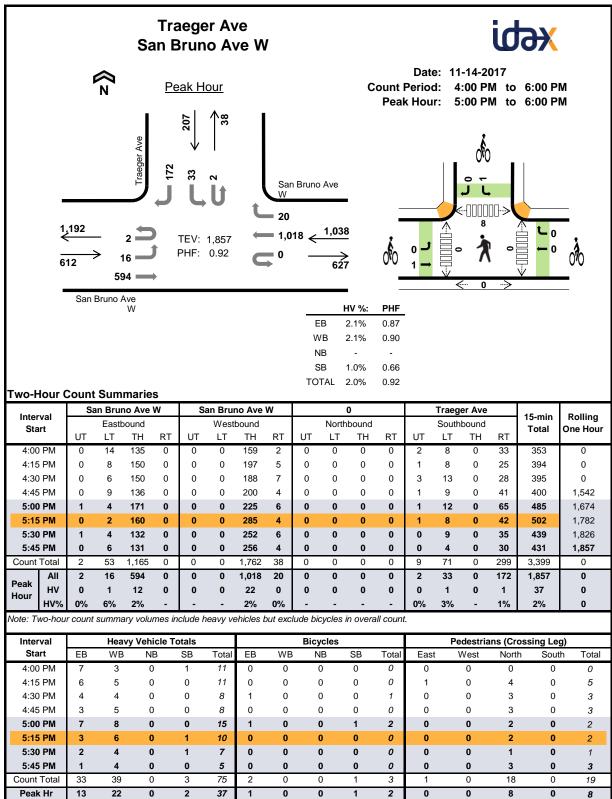


# Average Square Feet for Multifamily Units, Bedroom Count per Unit

Development/ Unit Type	Unit Size (sq. ft.)	Number of Units	Total Sq.Ft.
406 – 418 San Mateo Avenue			
Studio	546	2	1,092
1-Bedroom	686	43	29,498
2-Bedroom	908	30	27,240
3-Bedroom	1,367	8	10,936
500 Sylvan Avenue			
Studio	403	1	403
1-Bedroom	835	2	1,670
2-Bedroom	1,031	6	6,183
111 San Bruno Avenue West			
Studio	618	10	6,175
1-Bedroom	894	22	19,657
2-Bedroom	1,410	29	40,890
3-Bedroom	2,235	1	2,235
Mills Park Center Development			
Studio	576	30	17,280
1-Bedroom	911	272	247,656
2-Bedroom	1,184	125	148,000
170 San Bruno Avenue West*	•		,
Studio	344	1	344
1-Bedroom	736	37	27,232
2-Bedroom	1,034	4	4,136
	1,00 1	r	1, 100
Total Weighted Average Sq.Ft. per Unit Minimum Proposed Number of Bedroon Maximum Proposed Number of Bedroor		590,627 Sq.Ft. sq.Ft. idio Iroom	

<sup>\*</sup> Project is under review by City staff and has not been approved. Sources: City of San Bruno and EPS

Project Manager: (415) 310-6469



# Traeger Avenue and San Bruno Avenue Peak Hour Traffic Count Continued

www.idaxdata.com

Interval	Sa	an Brui	no Ave	W	Sa	an Brui	no Ave	W			0			Traeg	er Ave		15-min	
Start		Eastb	oound			West	bound			North	bound			South	bound		Total	Rolling One Hour
Otart	UT	LT	TH	RT	UT	LT	TH	RT	UT	LT	TH	RT	UT	LT	TH	RT	rotar	One near
4:00 PM	0	3	4	0	0	0	3	0	0	0	0	0	0	1	0	0	11	0
4:15 PM	0	0	6	0	0	0	5	0	0	0	0	0	0	0	0	0	11	0
4:30 PM	0	0	4	0	0	0	4	0	0	0	0	0	0	0	0	0	8	0
4:45 PM	0	0	3	0	0	0	5	0	0	0	0	0	0	0	0	0	8	38
5:00 PM	0	1	6	0	0	0	8	0	0	0	0	0	0	0	0	0	15	42
5:15 PM	0	0	3	0	0	0	6	0	0	0	0	0	0	1	0	0	10	41
5:30 PM	0	0	2	0	0	0	4	0	0	0	0	0	0	0	0	1	7	40
5:45 PM	0	0	1	0	0	0	4	0	0	0	0	0	0	0	0	0	5	37
Count Total	0	4	29	0	0	0	39	0	0	0	0	0	0	2	0	1	75	0
Peak Hour	0	1	12	0	0	0	22	0	0	0	0	0	0	1	0	1	37	0

### Two-Hour Count Summaries - Bikes

last a moral	San	Bruno A	ve W	San	Bruno A	ve W		0		Tı	aeger A	ve	45	D-III
Interval Start		Eastboun	d	V	Vestbour	nd	N	lorthbour	nd	S	outhbour	nd	15-min Total	Rolling One Hour
O.a c	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT		0.10.110411
4:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4:15 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4:30 PM	0	1	0	0	0	0	0	0	0	0	0	0	1	0
4:45 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	1
5:00 PM	0	1	0	0	0	0	0	0	0	1	0	0	2	3
5:15 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	3
5:30 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	2
5:45 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Count Total	0	2	0	0	0	0	0	0	0	1	0	0	3	0
Peak Hour	0	1	0	0	0	0	0	0	0	1	0	0	2	0

Note: U-Turn volumes for bikes are included in Left-Turn, if any.

Project Manager: (415) 310-6469

# FEHR PEERS

**Major Street** Minor Street San Bruno Avenue West Traeger Avenue

Project Scenario

San Bruno Bayhill **Existing Conditions** Peak Hour PM

**Turn Movement Volumes** 

	NB	SB	EB	WB
Left	0	35	18	0
Through	0	0	594	1,018
Right	0	172	0	20
Total	0	207	612	1 038

**Major Street Direction** 

	North/South
Х	East/West

**Intersection Geometry** 

Number of Approach Lanes for Minor Street **Total Approaches** 

2 3

Worst Case Delay for Minor Street

Stopped Delay (seconds per vehicle) Approach with Worst Case Delay Total Vehicles on Approach

23.4 WB 1,038

Warrant 3A, Peak Hour								
	Peak Hour Delay on Minor Approach (vehicle-hours)	Peak Hour Volume on Minor Approach (vph)	Peak Hour Entering Volume Serviced (vph)					
Existing Conditions	6.7	207	1,857					
Limiting Value	5	150	650					
Condition Satisfied?	Met	Met	Met					
Warrant Met		YES						

# **VTA Model Trip Scenarios**

	VTA Model - Mode Shares										
	2013 No Project										
Year	Mode				Mode						
Tear	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	12,192	389	174	809	90%	3%	1%	6%			
City of San Bruno	195,936	8,910	4,279	28,100	83%	4%	2%	12%			
San Mateo County	4,240,229	155,941	80,696	501,422	85%	3%	2%	10%			
Entire Region	43,667,833	2,900,558	825,643	5,185,725	83%	6%	2%	10%			

VTA Model - Mode Shares											
2013 Plus Bayhill Phase 1											
Veer	Mode				Mode						
Year	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	18,768	710	260	1,292	89%	3%	1%	6%			
City of San Bruno	202,360	9,201	4,367	28,758	83%	4%	2%	12%			
San Mateo County	4,246,543	156,279	80,739	501,894	85%	3%	2%	10%			
Entire Region	43,672,062	2,900,084	825,687	5,185,979	83%	6%	2%	10%			

	VTA Model - Mode Shares										
2013 Plus Bayhill Max Office											
V		Mo	ode		Mode						
Year	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	43,755	4,758	720	3,917	82%	9%	1%	7%			
City of San Bruno	226,231	13,419	4,842	32,222	82%	5%	2%	12%			
San Mateo County	4,269,231	161,013	81,331	504,784	85%	3%	2%	10%			
Entire Region	43,684,150	2,904,705	825,886	5,187,177	83%	6%	2%	10%			

	VTA Model - Mode Shares										
2040 No Project											
Year	Mode				Mode						
rear	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	11,930	576	191	836	88%	4%	1%	6%			
City of San Bruno	236,478	13,937	5,533	33,878	82%	5%	2%	12%			
San Mateo County	5,042,116	244,854	103,638	595,339	84%	4%	2%	10%			
Entire Region	53,899,809 4,344,522 1,086,881 6,604,408 82% 7% 2% 10%										

	VTA Model - Mode Shares										
2040 Plus Bayhill Phase 1											
Year		Mo	ode		Mode						
Teal	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	18,365	1,041	288	1,340	87%	5%	1%	6%			
City of San Bruno	244,860	14,336	5,663	34,711	82%	5%	2%	12%			
San Mateo County	5,072,844	245,265	104,160	596,412	84%	4%	2%	10%			
Entire Region	54,082,561	4,365,490	1,090,631	6,625,329	82%	7%	2%	10%			

	VTA Model - Mode Shares										
2040 Plus Bayhill Max Office											
Year		Mo	ode		Mode						
Teal	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	42,185	6,151	798	4,028	79%	12%	2%	8%			
City of San Bruno	266,978	19,647	6,176	38,276	81%	6%	2%	12%			
San Mateo County	5,070,293	251,248	104,311	596,911	84%	4%	2%	10%			
Entire Region	54,074,121	4,375,854	1,090,582	6,623,964	82%	7%	2%	10%			

	VTA Model - Mode Shares										
2040 Plus Max Office+Hotel											
Year		No Pi	oject			Pro	ject				
Year	Auto	Transit	Bike	Walk	Auto	Transit	Bike	Walk			
Project TAZ	42,269	6,171	800	4,038	79%	12%	2%	8%			
City of San Bruno	267,040	19,678	6,180	38,292	81%	6%	2%	12%			
San Mateo County	5,070,319	251,420	104,256	596,822	84%	4%	2%	10%			
Entire Region	54,076,356	4,373,825	1,090,525	6,623,829	82%	7%	2%	10%			



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

**DATE:** October 25, 2022

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Jovan D. Grogan, City Manager

**PREPARED BY:** Jennifer Dianos, Assistant to the City Manager

**SUBJECT**: Re-appoint Expired Members and Make New Appointments to Fill Current

Vacancies on Commissions Boards and Committees

**BACKGROUND**: The City of San Bruno has 10 citizen Advisory Commissions, Boards and Committees, commonly referred to as "CBCs." As the governing body for the City of San Bruno, the City Council appoints all members to CBCs.

In October of every even year, half of the City's current CBC Members' terms expire, and a recruitment to fill those seats occurs. At that time expiring members who wish to be reappointed to serve another term are invited to submit a new application for possible reappointment to the committee, board, or commission that they currently serve. Additionally, positions on CBCs become vacant from time to time. When this occurs, the City Clerk's Office administers a recruitment for the vacant position and notifies the City Council of the vacancy.

At present, there are several vacant positions on CBCs (listed below) and, on October 31, 2022, the four-year terms for 23 terms of existing appointees will expire. Several existing members have applied to be reappointed, some members have elected not to be reappointed, and there are new applicants for some vacant and expiring CBC positions.

Staff presented the appointment process at a Special City Council meeting on October 11, 2022 and received direction from the City Council to schedule interviews as soon as possible for the Boards, Commissions, and Committees that may be in jeopardy of a quorum and to proceed with the remaining interviews.

**DISCUSSION**: A summary of the 10 Citizen Advisory Commissions, Boards and Committees is noted below:

- Bicycle & Pedestrian Advisory Committee, 7 Members
- Citizen's Crime Prevention Committee, 7 Members
- Citizens Revenue Measure Oversight Committee, 7 Members
- Culture & Arts Commission, 7 Members
- Emergency Preparedness Committee, 5 Members
- Parks & Recreation Commission, 8 Members plus 1 Youth
- Planning Commission, 7 Members
- Recreation and Aquatics Center Advisory Committee, 8 Members

- Senior Citizens Advisory Board, 7 Members
- Traffic, Safety & Parking Committee, 5 Members

Appointees to CBCs are not compensated by the City and service on the bodies is voluntary. CBCs are "standing" bodies, which are different from "ad hoc" bodies in that they have a regular meeting schedule. Ad hoc bodies/committees do not have a regular meeting schedule, are typically established for a limited duration and their authorization must be renewed on an annual basis by the City Council.

The City Council conducted or will conduct interviews at Special City Council meetings scheduled on:

- Saturday, October 22, 2022
- Tuesday, October 25, 2022
- Wednesday, October 26, 2022

The interviewees are invited to attend through the City Clerk's Office, and have the option of interviewing in-person or connecting via Zoom. The process for the reappointment is fully detailed in attachment number 1 to this report, Section 8 of the <u>DRAFT</u> City Council Policies and Procedures Manual.

**FISCAL IMPACT**: There is no fiscal impact.

**ENVIRONMENTAL IMPACT**: There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

**RECOMMENDATION:** Re-appoint Expired Members and Make New Appointments to Fill Current Vacancies on Commissions Boards and Committees.

**ALTERNATIVES:** Make appointments to vacancies on Boards, Commissions and Committees at a later date.

#### **ATTACHMENTS:**

- 1. Section 8 of DRAFT City Council Policies and Procedures Manual
- 2. Matrix of Advisory Commissions, Boards and Committees (CBCs) with Details on Vacant and Expiring Terms as well as New Applications

# Section 8. Appointments to City Commissions, Boards and Committees (CBCs)

## A. Appointments per San Bruno Municipal Code Process

- In accordance with the San Bruno Municipal Code, the Mayor shall make all appointments to and removals from City boards, commissions, and committees, subject to approval by the City Council. (SB MuniCode 2.04.120 and CA Gov't Code §40605)
- 2. Use of the Alternative Appointment Process for Commission, Board or Committee Members
  - a. The Mayor may elect to use the Alternative Appointment Processes outlined in Sections 7.B and 7.C.
  - b. A majority of the City Council may only elect to use the Alternative Appointment Process after the Mayor has proposed an appointment(s) that the City Council has not approved in accordance with SB MuniCode 2.04.120 and CA Gov't Code §40605.
- 3. Removals from City boards, commissions, and committees shall follow the process outlined in *SB MuniCode 2.04.120* as well as applicable Federal and State law.

# B. Alternative Appointment Process for Commission, Board or Committee Members

Does not apply to San Bruno Community Foundation Board of Director Appointments, see Section 7.C.

#### **Round One: Nominations**

- Mayor or Presiding Officer of the Meeting to facilitate nominations
- Council members to be given the opportunity to make a Motion for Consideration for Appointment for any applicant
  - Requires a Second

Note: Any applicant that receives a Motion and a Second advances to Round 2 (no vote of the full City Council taken at this time). During the nomination process, Council members will not be called upon in alpha order. Members must ask to be recognized through the Chair if they would like to make a nomination.

## **Round Two: Simultaneous Voting Process for Nominees**

- City Clerk to call Council members alphabetically, with the Vice Mayor and Mayor last.
- Once called upon, Council members shall vote for their preferred nominee or abstention.
- In the event of a tie or if no single nominee receives three votes from the City Council, the appointment process proceeds to Round Three.
  - The nominee(s) that receive the lowest number of votes (or are tied for the lowest number of votes) shall be eliminated.
    - Note: If five nominees each receive one vote, all five nominees advance to Round Three.

## Round Three: Simultaneous Voting Process for Nominees, if needed

- City Clerk to call Council members alphabetically, with the Vice Mayor and Mayor last.
- Once called upon, Council members shall vote for their preferred nominee or abstention.
- In the event of a tie or if no single nominee receives three votes from the City Council, the appointment process proceeds to Round Four.
  - The nominee(s) that receive the lowest number of votes (or are tied for the lowest number of votes) shall be eliminated.
    - Note: If five nominees each receive one vote, all five nominees advance to Round Four.

## Round Four: Simultaneous Voting Process for Nominees, if needed

- City Clerk to call Council members alphabetically, with the Vice Mayor and Mayor last.
- Once called upon, Council members shall vote for their preferred nominee or abstention.
- In the event of a tie or if no single nominee receives three votes from the City Council, the appointment process ends and Council shall provide direction to staff whether to leave the position vacant or conduct a new recruitment process to fill the vacancy.

Page Break

## C. Appointment Process for SBCF Board of Director Appointments

Founded in 2013 by the City of San Bruno, the San Bruno Community Foundation (SBCF) is a 501(c)(3) tax-exempt nonprofit organization. The SBCF is distinguished from other City CBC's in that its legal structure is a dependent-nonprofit corporation under the City of San Bruno and SBCF Board members have a legal fiduciary duty to the Foundation (not the City). As such, the City Council has established the following Alternative Process for appointing SBCF Board members, which may be used at the discretion of the Mayor or a majority of the City Council.

- Advertising for and recruitment of SBCF Board members shall be done in accordance with Section 7D of this document, with the exception that:
  - The City Council shall receive all applications.
  - The Council may meet to review applications and determine which applicants to invite for an interview.
  - The SBCF Board shall select two members to attend and participate in the City Council interview process.
  - The appointment process for SBCF Board members shall follow the procedures outlined in Section 7A (option: Section 7B) of this document.

## D. Recruitment Officer for Commission, Board or Committee Members

- 1. The City Clerk serves as the official Recruitment Officer for members of the CBC's. As such, the City Clerk is responsible for advertising vacancies (whether scheduled or unscheduled) in conformance with Government Code section 54974, receiving and processing applications, scheduling interviews, and preparing staff reports related to CBC appointments. Additionally, as the CBC Recruitment Officer, the City Clerk is responsible for maintaining the City's official lists of CBC membership, vacancies, appointment dates, and term expirations.
- 2. Prior to the end of the term for a filled position or when a CBC position is vacated, -the City Clerk shall initiate a recruitment, which includes an initial recruitment period of 10 business days or greater, and/or schedule interviews to fill the position, if there are at least 2 individuals have applied for vacancy.
- 3. Per Government Code Section 54974 (a), a Notice of Vacancy, shall be posted not earlier than 20 days before, or not later than 20 days after the vacancy occurs. The Notice of Vacancy shall be posted to the City's website, as well as published on the City's social media accounts, and the City Clerk's Office will share the Notice of Vacancy with the City Council during the initial recruitment period, schedule permitting. The initial recruitment period may be extended at the discretion of the City Clerk in the event that fewer than 2 individuals have applied for the vacancy.

- 4. Per Government Code Section 54974 (a), final appointment to the board, commission, or committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.
- 5. Notwithstanding a decision to extend the initial recruitment period, the City Clerk shall furnish all submitted applications to the City Council at the close of the initial recruitment period and each subsequent recruitment period. During the period when the recruitment is extended, if a majority of the City Council requests to interview the applicants, the City Clerk shall work to schedule interviews with the City Council.
- 6. Unless directed by a majority of the City Council, all CBC applicants shall be given the opportunity to be interview by the City Council.

# City of San Bruno ADVISORY COMMISSIONS BOARDS COMMITTEES

BODY	Size	Quorum	Expiring	Total Open Seats	Cont. Service	# of Applications
Bicycle & Pedestrian Advisory Committee:	7	4	3	4	2	6 new / 3 on file
			(plus 1 vacant)			
Rob Anicetti (2024)			2024			
Matt Gaines (2024)			2024			
David Nigel (2022)			2022		Υ	
Cecile Riborozo (2022)			2022		Υ	
Paul Rose (2024)			2024			
Gus Sinks (2022)			2022		N	
VACANCY (2024)			2024			
Citizens Crime Prevention Committee	7	4	3	4	3	1 new
DI I D (0000)			(plus 1 vacant)			
Rhonda Boone (2022)			2022		Υ	
Peter Carey (2024)			2024			
Chad Keele (2024)			2024			
Robert Riechel (2022)			2022		Y	
Deanna Robinson (2022)			2022		Υ	
Richard Wong (2024)			2024			
VACANCY (2024)			2024			
Citizens Revenue Measure Oversight Committee	7	4	4	4	TBD	1 new / 1 on file
Vaughn Gregory (2024)			2024			
Anthony Clifford (2022)			2022		TBD	
Jim Evangelist (2024)			2024			
Ariella Fioranelli (2022)			2022		TBD	
Frank Hedley (2022)			2022		TBD	
John Marty (2022)			2022		TBD	
John Seevers (2024)			2024			
Culture & Arts Commission	7	4	<b>4</b> (includes 2 vacant)	4	2	2 new / 2 on file
Pamela Gamble (2024)			2024			
Jeanne George (2022)			2022		Υ	
Janet Monaghan (2022)			2022		Υ	
Pamela Maddden (2024)			2024			
Melissa Rohlfs (2024)			2024			
VACANCY (2022)			2022			

# City of San Bruno ADVISORY COMMISSIONS BOARDS COMMITTEES

VACANCY (2022)			2022			
Emergency Preparedness Committee	5	3	2	2	2	1 new
Ron LaPedis (2022)	3	<u> </u>	2022	2	Y	1 Hew
Janet Lutus (2022)			2022		Y	
Zidane Mili (2024)			2024		'	
George Peponis (2024)			2024			
Malcolm Robinson (2024)			2024			
Malcolli Robinson (2024)	+ +		2024			
Parks & Recreation Commission	8 + 1 youth	5	4 (plus 1 vacant youth)	5	4	1 on file
Kris Gonzales (2022)			2022		Y	
Lorry Greenberg (2022)			2022		Υ	
Tom Kuhn (2024)			2024			
Jessica Martinucci (2024)			2024			
David Nigel (2022)			2022		Υ	
Mike Palmer (2022)			2022		Y	
Lucy Zamattia (2024)			2024			
Michael Zastrow (2024)			2024			
VACANCY, Youth Rep (when graduate high school)			When graduate HS			3 new
Planning Commission	7	4	4	4	3	1 new / 3 on file
Rick Biasotti (2022)		•	2022	•	Y	1 HOW / C ON HIG
Marco Durazo (2022)			2022		Y	
Mary Lou Johnson (2024)			2024			
Auros Harman (2024)			2024			
Kelly Lethin (2024)			2024			
Gerard Madden (2022)			2022		Y	
Valentine Morgan (2022)			2022		N	
Parastian and America Contan Advisory	0		0	^	NI/A	
Recreation and Aquatics Center Advisory	8	5	U	0	N/A	0
<u>Committee</u> Linda Mason						
	+					
Michael Salazar Kris Gonzales	1					
	+					
Auros Harman	1					
Kelly Lethin	+ +					
Malissa Netane-Jones						

# Revised 10.11.22 New text shown in red

# City of San Bruno ADVISORY COMMISSIONS BOARDS COMMITTEES

Michael Palmer						
Jim Ruane						
Senior Citizen Advisory Board	7	4	0	0	N/A	0
Bunny Epperson (2024)			2024			
Linda Holman (2023)			2023			
Pricilla Martinez (2024)			2024			
Ralph Olcese (2023)			2023			
Joyce Satow (2023)			2023			
AARP Rep - Herb Chu						
Nutrition Site Rep - Barbara Cox						
Traffic Safety & Parking Committee	5	3	3 (includes 1 vacant)	3	2	4 new / 1 on file
Rhonda Collins (2022)			2022		Υ	
Roberta Hannibal (2024)			2024			
John Lampros (2022)			2022		Y	
Stephen Seymour (2024)			2024			
VACANCY (2022)			2022			

<sup>\*</sup>Some applicants submitted applications for multiple committees.

<sup>\*</sup>Some applications were on file with the City Clerk's Office.